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The right to food

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the Special Rapporteur on the right to food, Olivier De Schutter, submitted in accordance with General Assembly resolution 66/158.

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Interim report of the Special Rapporteur on the right to food

Summary

Global marine and inland fisheries provide food security to millions of people, supplying a vital source of high-quality dietary protein and supporting livelihoods and incomes. It is widely acknowledged, however, that the productivity of global fisheries as a source of food is declining, caused primarily by unsustainable and destructive fishing practices and distorting subsidies, and aggravated by climate change. In the present report, the Special Rapporteur identifies the challenges facing global fisheries and examines how the individuals most vulnerable to negative impacts (the residents of developing coastal and island countries, especially low-income food-deficit countries) can be supported to ensure the progressive realization of the right to food, noting that pursuing a human rights approach is critical to achieving sustainable development in the fisheries sector.

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I. Introduction

1. As noted in paragraph 113 of the outcome document of the United Nations Conference on Sustainable Development, adopted by the General Assembly in its resolution 66/288, the contribution made by the global fisheries sector to the right to food and food security is critical. Yet, in part because data are insufficient, it is often underappreciated. Most strategies aimed at improving food security neglect this sector or make only passing reference to it. Until recently, insufficient attention has been paid to protecting the rights of fishers and, more generally, individuals who depend on the fisheries sector. The Special Rapporteur assesses herein both the contribution of the fisheries sector to the realization of the right to adequate food and the challenges that the sector faces. He then makes recommendations that could guide current and future processes at the global level and the implementation of national-level policies that would support the realization of the right to food.

2. The present report has been prepared through studies and consultations. The Special Rapporteur is particularly grateful to the Fisheries and Aquaculture Department of the Food and Agriculture Organization of the United Nations (FAO) and to the United Nations Environment Programme (UNEP) for having co-organized with the mandate an expert meeting in Nairobi on 2 and 3 April 2012 that saw the participation of researchers, policymakers from all levels of government and representatives of non-governmental organizations, the fishing industry and small-scale fishing communities. He expresses thanks to the many individuals and organizations who contributed to informing his views on the topic considered herein.

II. Contribution of fisheries to the right to food

3. Fisheries contribute to food security through two pathways: directly, by providing fish for people, especially low-income consumers, to eat, thereby improving both food availability and the adequacy of diets; and indirectly, by generating income from the fisheries sector.

A. Food availability and improved diets

4. The total contribution by fisheries to food consumption has grown substantially over the past 50 years, averaging an increase of more than 3 per cent annually. Global per capita fish consumption stands at some 18.4 kg per annum,[1] although significant regional differences exist. In low-income food-deficit countries (excluding China), per capita fish consumption stands at some 10 kg, compared to approximately 29 kg in industrialized countries. Africa has the lowest per capita fish consumption of all continents, at 9.1 kg. Even these aggregate figures mask considerable variations between and within countries, however. Fish consumption, and dependency on fish, can be much higher in island and coastal countries, and in countries with large freshwater lakes and rivers. Furthermore, the lower average fish consumption in many developing countries notwithstanding, fish represents a higher proportion of dietary animal protein in developing countries and low-income food-deficit countries than in developed countries. Globally, fish represents 15 per cent of all

[1] FAO, *The State of World Fisheries and Aquaculture 2012* (Rome, 2012), p. 84.

animal protein consumed by people, whereas in low-income food-deficit countries the proportion is higher, at about 20 per cent, and in Asia it is higher still, at about 23 per cent.[2] In West and Central African countries such as the Congo, Côte d'Ivoire, Gabon and Ghana, fish provides almost half of a person's animal protein needs.[3] Indeed, there are at least 30 countries in which fisheries contribute more than one third of total animal protein supply, 22 of which are low-income food-deficit countries.[4]

5. Many fish are also rich in micronutrients, especially the smaller fish that are accessible to people living in poverty. The consumption of fish therefore not only helps to combat hunger, but also can address hidden hunger, or micronutrient deficiency. In addition, the seasonal availability of fish in rural communities is often different from crops, meaning that fish can help to reduce seasonal vulnerability.[4]

B. Sustaining livelihoods

6. The fisheries sector can contribute to the realization of the right to food by providing employment and income and sustaining local economies. Globally, 54.8 million people are engaged in capture fisheries and aquaculture and approximately three times as many are involved in upstream and downstream activities (e.g. fish processing, selling, net-making and boatbuilding).[2] Small-scale fisheries predominate in developing countries, where most fishing-related employment resides. Industrial boats employ some 200 people for every 1,000 tons of fish caught, while small-scale fishing methods (used by 90 to 95 per cent of people in the fisheries sector) employ some 2,400 people for the same amount of fish.[5] This greater intensity of labour has led experts to conclude that the small-scale fisheries sector is particularly pro-poor.[6] Women comprise about half of the global fisheries workforce, typically concentrated in the pre-harvest and post-harvest sector.[7] While employment is stagnating in wild-capture fisheries in most regions, it is increasing in aquaculture, especially in Asia, where employment rose from some 3.7 million people in 1990 to well in excess of 10 million people by the late 2000s (see table 1).

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[2] See John Kurien, "Responsible fish trade and food security: toward understanding the relationship between international fish trade and food security", 2004. Available from www.tradefoodfish.org/images/iitfpfs2.PDF.

[3] FAO, "Achieving poverty reduction through responsible fisheries: lessons from West and Central Africa", FAO Fisheries and Aquaculture Technical Paper, No. 513 (Rome, FAO, 2008), p. 48.

[4] Nozomi Kawarazuka, "The contribution of fish intake, aquaculture, and small-scale fisheries to improving food and nutrition security: a literature review", The WorldFish Center Working Paper, No. 2,106 (Penang, Malaysia, 2010), pp. 6-7.

[5] FAO and WorldFish Center, "Small-scale capture fisheries: a global overview with emphasis on developing countries: a preliminary report of the Big Numbers Project". The WorldFish Center Working Paper, No. 37,878 (Penang, Malaysia, 2008), p. 15.

[6] Daniel Pauly, "Small but mighty: elevate the role of small-scale fishers in the world market", *Conservation Magazine*, vol. 8, No. 3 (July-Sept 2007), p. 25.

[7] See David J. Mills and others, "Under-reported and undervalued: small-scale fisheries in the developing world", in *Small-scale Fisheries Management: Frameworks and Approaches for the Developing World*, Robert S. Pomeroy and Neil Andrew, eds. (Wallingford, United Kingdom of Great Britain and Northern Ireland, CABI, 2011).

Ta · 1
World fishers and fish farmers by continent

	1990	1995	2000	2005	2010
			(Thousands)		
Africa	1 917	2 184	3 899	3 844	3 955
Asia	26 765	31 328	36 752	42 937	47 857
Europe	645	529	752	678	634
Latin America and the Caribbean	1 169	1 201	1 407	1 626	1 974
North America	385	376	343	342	342
Oceania	67	69	74	74	76
World	**30 948**	**35 687**	**43 227**	**49 502**	**54 838**
Of which fish farmers					
Africa	2	61	84	124	150
Asia	3 772	7 050	10 036	12 228	16 078
Europe	32	57	84	83	85
Latin America and the Caribbean	69	90	191	218	248
North America	–	–	–	4	4
Oceania	2	4	5	5	6
World	**3 877**	**7 261**	**10 400**	**12 661**	**16 570**

Source: *The State of World Fisheries and Aquaculture 2012* (FAO, 2012).

7. The contribution of the small-scale fisheries sector tends to be obscured by national statistics because of underreporting, in particular in developing countries. For example, it was concluded in a 2010 study that, in one country, the actual catch of the small-scale sector was more than six times greater than that officially reported by the Government to FAO.[8] Underreporting of both catches and employment is especially high for inland small-scale fisheries, resulting in a tendency to neglect this subsector.

8. The small-scale fisheries sector is therefore an extremely important, albeit undervalued, source of livelihood, providing employment and income to millions of people, including women, in the post-harvest sector. It also plays an important safety net function, however. In times of crisis, often caused by failing agriculture, conflict or recession, fishing provides important part-time or temporary income or relatively free food.[9] The increased price volatility of food commodities created by climate change and other factors could make this role even more important in the future. Nevertheless, for fishing to provide this safety net, it must be kept relatively open and free. This creates tension with some approaches to avoiding overfishing, in particular exclusive user rights.

[8] See J. Jacquet and others, "Few data but many fish: marine small-scale fisheries catches for Mozambique and Tanzania", *African Journal of Marine Science*, vol. 32, No. 2 (2010).

[9] FAO, "Increasing the contribution of small-scale fisheries to poverty alleviation and food security", FAO Technical Guidelines for Responsible Fisheries, No. 10 (Rome, FAO, 2005), p. 13.

III. Current challenges

9. Maintaining, and in some cases increasing, fish supply can contribute significantly to the realization of the right to food in many countries, especially where alternative sources of high-quality protein are scarce or unaffordable. As demand for fish increases as a result of population growth and urbanization, however, supply can be matched only by further overfishing (beyond the carrying capacity of stocks) and reliance on industrial fishing methods that have profound environmental impacts, or by other means, including the development of aquaculture, the reduction of post-harvest losses and of the diversion of fish for fishmeal and other non-food uses, or the prohibition of the use of destructive fishing gear.[10] Although a decline in per capita fish-food supply is measurable today only in sub-Saharan Africa and is projected for the Pacific island countries and territories, a number of trends now result in serious threats to fish-food availability on a worldwide basis.

A. Environmental sustainability

10. The world's oceans and many of the world's lakes and rivers face serious threats. Without considerable effort to reverse existing trends, the ability of these aquatic ecosystems to continue to provide healthy quantities of fish will further decline. As acknowledged in paragraphs 163 to 168 of the outcome document of the United Nations Conference on Sustainable Development, the situation is worsening rapidly as the impacts of overfishing, destructive fishing and discards are exacerbated by the effects of climate change, pollution and habitat destruction.

1. Overfishing

11. Since the 1950s, there has been tremendous growth in fishing capacity worldwide, with the number and power of fishing vessels increasing dramatically. Between 1970 and 1990, global fish harvesting capacity grew eight times faster than the rate of growth in landings.[11] Although this trend may have slowed, technological improvements in fishing (including the use of spotter planes, sonar devices and underwater mapping technology, in addition to new fishing gears and improvements in refrigeration and navigation) mean that fishing capacity is bound to continue to grow. It has been estimated that, because of overcapacity and technology creep, the capacity of the global aggregate fishing fleet is at least double that which is needed to exploit the oceans sustainably.[12] Fishing sector subsidies may be contributing to this problem: each year, fisheries subsidies amount to between $30 billion and $34 billion, with $20 billion used to directly support improved fishing capacity, such as fuel and boatbuilding subsidies.[13]

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[10] According to FAO in its 2010 report on the state of world fisheries and aquaculture, fish production needs to increase by at least 27 million tons over the coming two decades to sustain current global per capita consumption levels.

[11] Dominique Gréboval and Gordon Munro, "Overcapitalization and excess capacity in world fisheries: underlying economics and methods of control", in *Managing Fishing Capacity: Selected Papers on Underlying Concepts and Issues*, Dominique Gréboval, ed., FAO Fisheries Technical Paper, No. 386 (FAO, Rome, 1999), p. 1.

[12] See Serge M. Garcia and Richard J. R. Grainger, "Gloom and doom? The future of marine capture fisheries", *Philosophical Transactions of the Royal Society B*, vol. 360, No. 1,453 (January 2005).

[13] See U. Rashid Sumaila and others, "A bottom-up re-estimation of global fisheries subsidies", *Journal of Bioeconomics*, vol. 12, No. 3 (October 2010).

12. While the global production figures for wild-capture fisheries provided by FAO appear stable, these data may not always provide a complete picture, given that they exclude unreported and illegally caught fish and that catches by small-scale inland fisheries often go underreported. Moreover, production levels over the past few decades have been achieved partly by shifting fishing efforts to other, normally smaller fish. As a result of fishing down marine food webs (or the increasing dominance of catches by low-trophic-level species), 90 per cent of all large predatory fish species in parts of the world's oceans have disappeared since 1950.[14] In addition, the growth of commercial fisheries since the 1950s has meant that commercial fisheries from traditionally powerful fishing entities (the European Union, Japan, North America and the Russian Federation) have been deployed to almost all areas of the globe, searching for new fishing opportunities as old ones have been exhausted.[15] This geographical displacement has intensified with the rise of new distant-water fishing fleets, such as those of China and the Republic of Korea. Such displacement also occurs at the micro level, given that in many coastal areas of the world fishers are responding to localized depletion by travelling further, spending more time at sea (thereby using more fuel) and migrating to neighbouring countries.

2. Destructive fishing and discards

13. Overfishing is but one reason why the current system is unsustainable. Although recent technological progress has reduced the environmental impact of industrial fishing, some methods, such as industrial bottom trawling, remain highly destructive and wasteful. Other methods, such as high-grading (where fishing boats do not retain catches because of their inferior market value or because the size or species of the catch is prohibited by regulations), also cause significant discards of fish and other marine wildlife. Conservative estimates put average annual discards at some 7.3 million tons, or about 9 per cent of total global production.[16]

14. Reducing the most unsustainable practices is difficult for numerous reasons, including the prevalence of illegal fishing practices, trans-shipment at sea, the targeting and trading of protected species, the use of banned fishing gear and the activities of industrial boats in coastal zones reserved for small-scale fisheries. Estimates of the scale of illegal fishing vary considerably, from about $9 billion to $25 billion, or between 10 million and 28 million tons.[17] Although such estimates should be treated with caution, it is clear that, as fish are becoming less abundant, fishing vessels are tempted to evade rules and conservation strategies.

15. In comparison to some industrial fishing methods, small-scale fisheries rarely discard catches and tend to have a much lower impact on aquatic habitats. In many parts of the world, however, the increase in the number of small-scale fishers is causing stress on fish populations. A minority of small-scale fishers also uses destructive methods of fishing, such as encroachment into protected areas and the

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[14] See Boris Worm and others, "Global patterns of predator diversity in the open oceans", *Science*, vol. 309, No. 5,739 (August 2005).

[15] See Wilf Swartz and others, "The spatial expansion and ecological footprint of fisheries (1950 to present)", *PLoS ONE*, vol. 5, No. 12 (December 2010).

[16] See Kieran Kelleher, "Discards in the world's marine fisheries. An update", FAO Fisheries Technical Paper, No. 470 (Rome, FAO, 2005).

[17] See High Seas Task Force, *Closing the net: stopping illegal fishing on the high seas* (London, 2006).

use of dynamite fishing, poisons to catch reef fish and extremely fine nets that are banned because of their impact on juvenile fish. In one report on illegal fishing in West Africa, it is claimed that the scale of illegal/unreported fishing by the artisanal fishing fleet is of a similar magnitude to that found in the industrial sector.[18]

3. Climate change

16. These direct threats to the sustainability of fish production systems are magnified by the impacts of climate change. The rise in atmospheric carbon dioxide leads to increased sea temperatures and ocean acidification, threatening many calcifying organisms such as molluscs, plankton and coral reefs. This reduces dependent fish populations and is exacerbated by unsustainable fishing practices.[19] Warmer sea temperatures may lead to more frequent and severe outbreaks of algal blooms, which can have a devastating impact on fish populations. Extreme climate-related events may destroy coastal habitats. Marine species respond to the warming of oceans by moving to colder waters, which includes shifting their latitudinal range or moving to greater depths. Some fish will gradually move away from rich tropical waters, resulting in localized extinctions and the invasion of some species into waters where they were previously not found.[20]

4. Pollution and habitat loss

17. Oil spills, agricultural and industrial run-off, pollution from aquaculture and the enormous accumulation of plastic debris in water will have lasting effects on marine wildlife. Both climate change and pollution have contributed to dead zones in the ocean,[21] where oxygen levels in surface water are extremely low and can no longer support wildlife. Dead zones are linked with increasingly frequent outbreaks of red tides, where mass mortality events of fish and marine mammals are caused by toxin build-ups owing to lower oxygen levels in their environment.[22]

18. There has also been a vast increase in the accidental[23] introduction of exotic fish and plant species, partly as a result of increased shipping traffic, which routinely leads to the dumping of thousands of gallons of ballast water from one ocean into another.[24] When this occurs in inshore areas and estuaries,[25] it leads to

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[18] See D. J. Agnew and others, "Estimation of the cost of illegal fishing in West Africa" (Marine Resources Assessment Group, London, 2010).

[19] A recent survey of coral reef fisheries, accounting for some 10 per cent of global fish production, showed that current fishing practices in 55 per cent of countries were unsustainable and that the fishing of coral reef species was roughly 64 per cent higher than could be sustained. See Katie Newton and others, "Current and future sustainability of island coral reef fisheries", *Current Biology*, vol. 17, No. 7 (April 2007).

[20] See William W. L. Cheung and others, "Projecting global marine biodiversity impacts under climate change scenarios", *Fish and Fisheries*, vol. 10, No. 3 (2009).

[21] See Eric D. Prince and others, "Ocean scale hypoxia-based habitat compression of Atlantic istiophorid billfishes", *Fisheries Oceanography*, vol. 19, No. 6 (2010).

[22] Jeremy B. C. Jackson, "The future of the oceans past", *Philosophical Transactions of the Royal Society B*, vol. 365, No. 1558 (November 2010), p. 3,770.

[23] There are, of course, several examples, from tilapia found outside Africa to the Asian carp in the Mississippi River, where the deliberate introduction by humans of invasive species has helped solve a local problem within the ecosystem.

[24] Jackson, "The future of the oceans past", p. 3,769.

[25] See Jennifer L. Molnar and others, "Assessing the global threat of invasive species to marine biodiversity", *Frontiers in Ecology and the Environment*, vol. 6, No. 9 (2008).

the displacement of local species and, often, severely diminished biodiversity and reduced fish populations.

19. Lastly, the future of fishing is threatened by habitat loss. Mangrove forests, seagrass meadows, salt marshes and coral reefs play a vital role in the reproductive cycles of many fish and marine species. Since the 1940s, however, 35 per cent of the world's mangrove forests has been destroyed and one third of seagrass areas and 25 per cent of salt marshes have been lost.[26] For some habitats, declines are accelerating. Before 1990, seagrass meadows were being lost at a rate of about 1 per cent annually; since 1990, this rate has increased to 7 per cent.[27] One third of coral reefs has disappeared during the past 50 years.

B. Globalization of the fishing industry

20. International trade in fish products rose from 8 million tons in 1976, with a value of about $8 billion, to 57 million tonnes in 2010, worth an estimated $102 billion. Approximately 40 per cent of all fish production is traded internationally, which is more than other foods such as rice (5 per cent) and wheat (20 per cent).[28] For many low-income food-deficit countries or developing countries, the fisheries sector has become an increasingly important, but undervalued, economic sector, both as a source of export revenue and as a source of State revenue from selling access to distant-water fishing fleets. The overall economic, social and food security impacts of this increase in international trade of fish products are, however, ambiguous.

1. Competition for marine resources

21. Theoretically, the globalization of the fishing industry through trade and access arrangements may lead to decreased fish-food consumption by those who face food shortages and malnutrition, as competition for marine resources increases between populations with widely diverging purchasing power. The evidence in this regard is mixed, however, as shown by studies in which it is suggested that there may be cases where the availability of fish in low-income food-deficit countries may increase as exports rise.[29] For some countries in which small-scale fishing is not historically abundant, increased foreign fishing and investments in fish-processing factories to supply foreign markets may improve the availability of food locally, in particular where Government programmes redirect fish products from export to local markets.[30] It has also been suggested that an increase in exports of high-value fish could be commensurate with an increase in imports of lower-value

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[26] See UNEP, *Blue Carbon: A Rapid Response Assessment* (2009), available from www.grida.no/files/publications/blue-carbon/BlueCarbon_screen.pdf.

[27] See Michelle Waycott and others, "Accelerating loss of seagrasses across the globe threatens coastal ecosystems", *Proceedings of the National Academy of Sciences*, vol. 106, No. 30 (July 2009).

[28] FAO, *The State of World Fisheries and Aquaculture 2012*, pp. 14-15 (see footnote 1).

[29] Kurien, "Responsible fish trade and food security" (see footnote 2); Edward H. Allison, "Aquaculture, fisheries, poverty and food security", The WorldFish Center Working Paper, No. 2011-65 (Penang, Malaysia, 2011), pp. 34-36.

[30] Johann D. Bell and others, "Planning the use of fish for food security in the Pacific", *Marine Policy*, vol. 33, No. 1 (January 2009), p. 33.

fish, made possible by export revenue and leading to a healthy trade balance in terms of volume and value.

22. Concurrently, dependence on exports for revenue and on imports for food security creates a vulnerable situation in which economic shocks and food price volatility may increase the cost of fish-food imports for some developing countries, or lower the demand and prices paid for their exports. In Mozambique, for example, from 2004 to 2008, exports of high-value fish such as prawns decreased in volume by 34 per cent and in value by 41 per cent, while imports of cheaper fish for local consumption from Namibia and South Africa increased in volume by 50 per cent and in value by 45 per cent.[31] This meant that the fisheries trade balance in Mozambique had been reduced from about $90 million in 2002[32] to slightly in excess of $23 million by the end of the decade.

23. Local food supplies can be reduced where host Governments have issued licences or signed access agreements allowing foreign vessels to target fish and fishing grounds used by small-scale fishers, given that foreign boats are geared towards export and may undermine local small-scale fisheries. Although it is noted in the United Nations Convention on the Law of the Sea that countries should provide access to foreign fishing only for surplus fish that the local fishing sector cannot catch (arts. 62 (2), 69 (2) and 70 (3)), short-term economic incentives often prevail and, in many countries, scientific knowledge of surplus fish and information about catches are insufficient to ensure adequate compliance with this provision.

2. Employment opportunities for local populations

24. For small-scale fishers in developing countries, increased demand in foreign markets may open up opportunities. In Sri Lanka, fishers targeting species for overseas markets, such as tuna, shrimp and lobster, have much higher incomes than those involved in fisheries for local markets.[33] In other cases, however, where small-scale fishers sell fish destined for overseas markets, middlemen or fish-processing factories may pay relatively low prices, only marginally higher (or even the same) than those paid by local markets and consumers. In a study of fish trade in India, it was noted that fishers had little information on the prices paid for fish for export and relatively few actors controlled the supply chain and points of final sale.[34] Although there are promising counter-examples, small-scale fishers generally face considerable obstacles, such as competition from larger firms and tariff and non-tariff trade barriers, including difficulties in meeting the stringent hygiene and sanitation standards demanded by importing countries.[35]

25. The creation of fisheries for export markets and the increasing investments of foreign fishing firms may lead to new jobs on fishing boats and at the processing

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[31] See United States Agency for International Development, *Competitiveness of Mozambique's fisheries sector* (Washington, D.C., United States Agency for International Development, 2010).

[32] See FAO, *Present and future markets for fish and fish products from small-scale fisheries — case studies from Asia, Africa and Latin America* (FIIT/FIIU/C1033).

[33] Kurien, "Responsible fish trade and food security" (see footnote 2), p. 45.

[34] See Report for Oxfam (India) Trust on fishery in Orissa, available from www.orissafisheries.com/File/Value%20Chain%20Analysis%20Report%20of%20OXFAM-dec04.pdf.

[35] See FAO, *Report of the Global Conference on Small-scale Fisheries "Securing Sustainable Small-scale Fisheries: Bringing Together Responsible Fisheries and Social Development", Bangkok, 13-17 October 2008* (FIEP/R911).

stage (in countries that have the appropriate infrastructure). In many countries, however, jobs on foreign vessels are not open to local citizens and, even where they are, wages and job security are often poor and dangerous. In a 1999 study on safety and health in the fishing industry, the International Labour Organization estimated that 24,000 people working in the fish industry died annually from work-related causes. More recent research has exposed poor, even slave-like, working conditions in many industrial vessels operating illegally in developing coastal countries.[36] This highlights the importance of swift and wide ratification of the Convention concerning Work in the Fishing Sector (Convention No. 188) and the need to introduce provisions concerning work conditions on-board fishing vessels in fishing access agreements.

26. The quality of working conditions in the fish-processing industry also raises concerns, although conditions have improved since developed countries imposed higher sanitation and hygiene standards. In a 2004 study,[37] FAO showed that, for 9 of the 11 countries surveyed, fish workers were paid close to the minimum wage and often received much lower than the average per capita income for the country. In Chile, for example, the area home to most fish processing factories was also the area with the lowest per capita income levels.[38] Moreover, high levels of seasonal and informal work exist in the processing sector, meaning that many workers are not employed on full-time contracts with basic labour benefits, such as sick pay, pension or maternity leave. In part owing to the many fish-processing firms in the sector, workers often fail to unionize and to enter into collective bargaining.

27. The employment benefits from the increase of commercial exports must be weighed against the costs. Such an increase may lead to demand-led overfishing and sharpen the competition for resources between industrial and small-scale fishing. Export increases may over time lead to the loss of jobs for fishers in the small-scale sector. In Argentina, for example, the considerable expansion of industrial pelagic fisheries in the 1990s saw the gradual control of those fisheries by foreign-owned fishing enterprises, which displaced smaller, more labour-intensive local companies.[39] The growth of export-oriented fisheries may also lead to employment losses for the fish processors working in the small-scale sector supplying local or regional markets, as was seen in Kenya with the growth in commercial exports of Nile perch to Europe.

28. Support should be given to small-scale fishers to enable their entry into global markets under conditions that provide decent employment and allow fishers' cooperatives to expand into the high-added-value stages of the industry (see table 2). Maldives may serve as an example in this regard. Industrialized tuna fishing has not been permitted and the vast majority of fishing is undertaken by locally owned pole-and-line fishing boats.[40] In other cases, lobster fishers in Ceará, Brazil, for example,

[36] See Environmental Justice Foundation, *All at Sea: The Abuse of Human Rights aboard Illegal Fishing Vessels* (London, 2010).

[37] See Kurien, "Responsible fish trade and food security" (see footnote 2).

[38] See Stina Ellevseth Oseland, Håvard Haarstad and Arnt Fløysand, "Labor agency and the importance of the national scale: emergent aquaculture unionism in Chile", *Political Geography*, vol. 31, No. 2 (February 2012).

[39] See UNEP, *Integrated Assessment of Trade Liberalization and Trade-Related Policies: A Country Study on the Fisheries Sector in Argentina* (UNEP/ETB/2002/8).

[40] See Robert Stone, Lagi Toribau and Sari Tolvanen, "Developing sustainable and equitable pole and line fisheries for skipjack" (Greenpeace International, Amsterdam, 2009).

formed a cooperative that bypassed middlemen and allowed direct sales to retailers in the United States of America, increasing their profits by 70 per cent.[41]

Table 2
Respective contributions of large-scale and small-scale fisheries

FISHERY / BENEFITS	LARGE SCALE	SMALL SCALE
Subsidies	$$$$$ 25-27 billion	$ 5-7 billion
Number of fishers employed	about 1/2 million	over 12 million
Annual catch for human consumption	about 30 million t	same: about 30 million t
Annual catch reduced to fishmeal and oils	35 million t	Almost none
Annual fuel oil consumption	about 37 million t	about 5 million t
Catch per tonne of fuel consumed	1-2 t	4–8 t
Fish and other sealife discarded at sea	8–20 million tonnes	Very little

Source: Jennifer Jacquet and Daniel Pauly. "Funding priorities: big barriers to small-scale fisheries", *Conservation Biology*, vol. 22, No. 4 (August 2008).

[41] See Kurien, "Responsible fish trade and food security" (see footnote 2).

3. Revenue from trade and licence-related and access-related payments

29. Increased trade and licence-related and access-related payments can generate revenue for the developing countries concerned. The benefits, however, often continue to be shared unequally. Among the island nations in the western and central Pacific Ocean, for example, most commercial tuna fishing is managed through bilateral agreements with distant-water fishing fleets. The tuna fisheries are estimated to be worth $3 billion annually, yet local countries receive only some 6 per cent of that amount.[42] Research into European Union fisheries agreements conducted in the late 1990s also showed that benefits were unevenly shared. Overall, Union agreements generated more than seven times as much value to European countries (mostly France and Spain) than they did for the host countries.

30. A related concern pertains to the considerable underreporting of catches to host countries, which can lower host country revenue. In a study of European fishing in Guinea-Bissau, it was estimated that, not only were catches often misreported, but also substantial amounts of fish and shrimp were caught as by-catch, incurring no fees, and were then sold in Europe.[43] Adjusting for by-catch suggested that Guinea-Bissau received less than 2 per cent of the total value of the fish caught under the agreement.

31. Even where licences and access agreements generate substantial revenue for host countries, the poverty-reducing impacts are ambiguous. Managing foreign industrial fisheries may absorb a significant proportion of the revenue received by Governments. Corruption and embezzlement may result in State fisheries revenue contributing little to economic development, a situation compounded by the confidentiality of many bilateral fisheries agreements and fisheries licence payments. The World Bank, having identified this aspect as an important area for governance reform, is preparing to launch a fisheries transparency initiative modelled on the Extractive Industries Transparency Initiative. Nevertheless, it is too early to determine whether increased information disclosure in fisheries revenue will improve financial accountability and redistribution in the fisheries sector.

32. Lastly, the wealth generated by commercial fisheries may be concentrated among a few business and political elites, or repatriated to other countries, without benefiting the fishers, let alone society at large. Often, most benefits are reaped by the exporting firms and do not go towards improving the food security of the fishers or fish workers.[44]

C. Rise of aquaculture

33. Aquaculture has developed rapidly over the past few decades and is now considered the fastest-growing food production system in the world. Between 1980 and 2010, global fish-food production from aquaculture expanded twelvefold and, by 2010, total production from aquaculture was measured at 79 million tons, worth

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[42] Elizabeth Havice and Liam Campling, "Shifting tides in the western and central Pacific Ocean tuna industry: the political economy of regulation and industry responses", *Global Environmental Politics*, vol. 10, No. 1 (February 2010), p. 89.

[43] Vlad M. Kaczynski and David L. Fluharty, "European policies in West Africa: who benefits from fisheries agreements?", *Marine Policy*, vol. 26, No. 2 (March 2002), p. 75.

[44] See Kurien, "Responsible fish trade and food security" (see footnote 2).

$125 billion.[45] Aquaculture may provide up to 45 per cent of all fish for direct human consumption, although that figure does not consider the large amount of unrecorded fish caught by both small-scale and industrial fisheries. There are, however, strong regional imbalances. About 62 per cent of the world's total aquaculture production comes from China, and the next five largest producers are all in Asia, which accounts for about 88 per cent of all aquaculture production.

34. The impressive growth of aquaculture is seen, in part, as a response to the challenges discussed above, in particular to the stagnating wild-capture fisheries. While this holds true in Asia, fish farming is minimal in Africa, the Pacific and Latin America. Consequently, it remains difficult, in the absence of adequate data, to assess whether aquaculture is genuinely supporting food availability and accessibility for people living in poverty. Although small-scale aquaculture can contribute significantly to local food security, considerable investment and growth in aquaculture is for the benefit of exports or for middle-class urban consumers.

35. The reliance on wild-caught fish, fishmeal and fish oil in some forms of aquaculture must be considered. While most aquaculture products, such as non-carnivorous fish and molluscs, do not need fish as input, many species grown in fish farms require wild-caught fish as feed, for healthy growth and resilience to disease, and to ensure the high nutritional value of the product. In Asia, large quantities of what is known as "trash fish" are used by aquaculture farms, supplied by larger-scale fishing vessels as by-catch and also caught by small-scale fishers in some regions. Data on the volumes of trash fish used in aquaculture in Asia are considered unreliable, but the best estimates put the volume at about 5 million tons.[46] Other forms of aquaculture use processed fishmeal and fish oil as ingredients in fish-feed products, with most caught by industrial fisheries for small pelagics in South America. Overall, some 27 million tons of fish (34 per cent of the world fisheries catch) are ground up annually into fishmeal and oil. Aquaculture accounts for slightly in excess of half of this amount.[47]

36. The expansion of aquaculture has not led to an overall increase in the fish reduction industry. Instead, fishmeal has shifted from use in livestock farming to use in aquaculture over the past decade. While using fish to farm fish is a more efficient method of producing protein than feeding fish to chickens or pigs, the industry continues to face problems. Recent reports highlight extensive overfishing and negative ecosystem impacts caused by the reduction industry.[48] Use of the industry to produce farmed fish for wealthy consumers may come at the expense of poorer populations who could benefit from improved availability of and accessibility to wild fish.

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[45] FAO, *The State of World Fisheries and Aquaculture 2012* (see footnote 1), p. 25.

[46] See G. D. Chandrapal, "Status of trash fish utilization and fish feed requirements in aquaculture India", paper presented at the Regional Workshop on Low-Value Fish and "Trash Fish" in the Asia Pacific Region, Hanoi, June 2005.

[47] FAO, *The State of World Fisheries and Aquaculture 2010* (Rome, 2010), p. 3.

[48] See Mort Rosenblum and Mar Cabra, "'Free-for-all' decimates fish stocks in the southern Pacific", 25 January 2012. Available from www.icij.org/project/looting-seas-iii/free-all-decimates-fish-stocks-southern-pacific.

37. The relationship between fishmeal and fish-food availability for human consumption is complex:[49] the aquaculture industry has become more efficient in its use of fishmeal (for example, the use of plant-based feed to grow fish or a greater use of fish waste from industrial fish-processing factories: about one quarter of all fishmeal and fish oil comes from offcuts), significant regional variations exist and trade-offs may appear less obvious because of the higher costs in processing fish for human consumption compared to processing fish for fishmeal. Policy initiatives may reduce the competition between fishmeal and fish-food availability for human consumption. Peru supplies about half of the world's fishmeal and fish oil, but also needs to address food insecurity. To combat malnutrition, the Government has been promoting direct human consumption of fish since 2006, with 30 per cent of the food security budget ($80 million) spent on programmes to stimulate supply of and demand for fish products for human consumption. It has also imposed restrictions on the industry to ensure a proportion of fish that cannot be used for reduction purposes.[50]

IV. Meeting the challenges

38. The challenges described above can be addressed through policy responses grounded in the right to adequate food. In assessing efforts under way to tackle these challenges, the Special Rapporteur does not suggest that the right to food will provide a master plan for fisheries reform: context matters. The human rights obligations of States must guide their actions, however.

39. First, the right to food requires that States respect existing access to adequate food and abstain from taking measures that result in reducing such access. To fully discharge this obligation, States should refrain from adopting any policy that affects the territories and activities of small-scale, artisanal and indigenous fishers unless their free, prior and informed consent is obtained. National and local courts may play a significant role in this regard. Courts should be empowered, in particular, to adjudicate claims from small-scale fishers whose livelihoods are threatened by measures that infringe on their ability to fish so as to provide sufficient income to ensure an adequate standard of living.[51]

40. Second, States have an obligation to protect the right to food. They must ensure that enterprises or individuals do not deprive individuals of their access to adequate food. In the context of fisheries policies, this requires States, in particular,

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[49] See Ulf N. Wijkström, "The use of wild fish as aquaculture feed and its effects on income and food for the poor and the undernourished", in *Fish as feed inputs for aquaculture: practices, sustainability and implications*, Mohammed R. Hasan and Matthias Halwart, eds., FAO Fisheries and Aquaculture Technical Paper, No. 518 (Rome, FAO, 2009).

[50] See "Fishing in Peru; the next anchovy coming to a pizza near you", *The Economist*, 5 May 2011. Available from www.economist.com/node/18651372.

[51] See, for example, *Kenneth George and Others v. Minister of Environmental Affairs and Tourism*, in which the High Court of South Africa ordered a revision of the Marine Living Resources Act and required that the development of a new framework should take into account international and national legal obligations and policy directives to accommodate the socioeconomic rights of small-scale fishers and to ensure equitable access to marine resources for those fishers. This resulted in the adoption of a new small-scale fisheries policy in May 2012, which recognized the importance of small-scale fisheries in contributing to food security and as serving as a critical safety net against poverty.

to protect the access rights of traditional fishing communities from industrial fishing and to control private actors that could affect the lands, territories and water on which these communities depend.

41. Lastly, States have an obligation to fulfil the right to food, which requires them to act proactively to strengthen people's access to and utilization of resources and means to ensure their livelihoods. The search for arrangements that preserve the long-term (environmental) sustainability of fishing, including by reducing overfishing and conserving fish habitats, while concurrently improving the incomes of small-scale fishing communities, is the key challenge facing Governments in developing strategies that progressively realize the right to food. The example of the work carried out by a group of organizations, led by the Secretariat of the Pacific Community, to identify current per capita fish consumption in the Pacific island countries and territories in order to project future scenarios of fish food security and to develop plans to tackle the key challenges, may serve as a source of inspiration.

42. The Special Rapporteur has identified three areas in which the right to adequate food may guide efforts to improve fisheries management: policies aimed at combating overfishing; the management of export-oriented fishing, including access agreement negotiations; and the protection of small-scale fisheries. They are discussed below.

A. International efforts to reduce overfishing

1. Existing commitments

43. As awareness has grown of the threat posed by overfishing, international agreements and guidelines have been drawn up to address various dimensions of the problem. These include the United Nations Convention on the Law of the Sea, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the 1995 Fish Stocks Agreement) and the FAO Code of Conduct for Responsible Fisheries, which adopt precautionary and ecosystem approaches to fisheries. Arguably the most ambitious is the Plan of Action of the World Summit on Sustainable Development, which includes actions to reduce overcapacity in the global fishing fleet, a commitment to expand the total coverage of marine protected areas to 10 per cent of the world's oceans by 2012 (later deferred to 2020 in the light of the slow progress) and to rebuild fish stocks by 2015. At the United Nations Conference on Sustainable Development, Governments pledged to intensify their efforts in that regard (see para. 168 of the outcome document).

44. Progress is also being made in managing coastal and inshore areas fished predominantly by small-scale fishers. The limitations of top-down management strategies are now better appreciated and the participation of fishing communities is seen as paramount, as is the integration of local fishers' knowledge of fish and marine habitat changes. The need for community co-management arrangements in fisheries is reinforced in the draft FAO guidelines for securing sustainable small-scale fisheries, which are being finalized through extensive stakeholder consultations at the time of writing.

45. Although success in some countries to restore fish stocks to healthy levels has been achieved,[52] global progress in implementing the various commitments remains disappointing, as confirmed in studies of fisheries management effectiveness.[53] Other targets in the Plan of Action of the World Summit on Sustainable Development have largely been missed. Although fishing capacity has declined in some countries since 2002, it has increased globally from about 4.02 billion kilowatt-days in 2002 to 4.35 billion kilowatt-days in 2010.[54] The total coverage of marine protected areas is estimated at less than 2 per cent.

46. The widespread failure to implement responsible fisheries management notwithstanding, the situation can be rectified. For example, there has been notable progress in creating marine protected areas, with some of the largest protected areas being declared recently, including in northern Australia and in the Indian Ocean surrounding the Chagos Islands. During the United Nations Conference on Sustainable Development, Maldives announced that its entire territorial waters would become a marine reserve by 2017 and industrial fishing and extractive industries therein would be banned. Notwithstanding the benefits expected to accrue from marine protected areas and their relatively minor management costs (around $2 billion in total, compared to the $16 billion spent annually on subsidies in the fishing sector), marine protected areas cannot replace regulation of fishing efforts and harvesting capacity. In addition, they can negatively affect the livelihoods of small-scale fishers and local food security.

2. Role of subsidies

47. As mentioned in paragraph 11 of the present report, subsidies, at least those that support increased industrial fishing capacity, may encourage overfishing. At the Fourth Ministerial Conference of the World Trade Organization (WTO), held in Doha in November 2001, negotiations to clarify and improve WTO disciplines on fisheries subsidies were initiated. At the Sixth Ministerial Conference of WTO, held in Hong Kong, China, in December 2005, broad agreement was reached on strengthening those disciplines, including a prohibition of fisheries subsidies that directly contributed to overcapacity and overfishing. In 2007, the Chair of the Negotiating Group on Rules submitted recommendations that included exemptions for low-income food-deficit countries, in particular for subsidies that promoted the development of and supported small-scale fishers. Such exemptions would be conditional on countries showing that subsidies were provided only where there were robust measures to protect fish stocks and prevent overfishing. While this recommendation has gained widespread approval, there have been more controversial calls to expand the exemptions to other developing countries. Some States have expressed doubts over the contribution of subsidies to overfishing. Disagreements also exist as to exactly what type of subsidies should be prohibited, with opinions differing on issues such as the building of ports and fisheries access agreements. Lastly, there are concerns that, even if agreement is reached, enforcing

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[52] See, for example, Boris Worm and others, "Rebuilding global fisheries", *Science*, vol. 325 (2009).

[53] See, for example, Tony J. Pitcher and others, *Safe Conduct? Twelve Years Fishing under the UN Code*" (WWF, Gland, Switzerland, 2008).

[54] See Liane Veitch and others, "Avoiding empty ocean commitments at Rio+20", *Science*, vol. 336, No. 6,087 (June 2012).

the WTO disciplines will be extremely difficult, given that 90 per cent of fisheries subsidies are confidential and beyond public scrutiny.[55]

3. Combating illegal, unreported and unregulated fishing

48. Other efforts to address overfishing include international initiatives to combat illegal, unreported and unregulated fishing. In 2001, FAO produced an international plan of action to prevent, deter and eliminate such fishing, within the framework of the FAO Code of Conduct for Responsible Fisheries. The European Community followed with a Community action plan to eradicate such fishing, in 2002. In 2005, FAO produced a model scheme on port State measures to combat such fishing, focusing on the role of port States in preventing illegally caught fish from being trans-shipped to or laundered in the legal market, and, in 2009, the first legally binding instrument in that regard was adopted by the FAO Conference. Under the instrument, port States are obliged to deny access to vessels known to engage in illegal activities and port authorities required to share data on port visits of fishing vessels with regional fisheries management organizations. The European Union has now also passed legislation (Council Regulation (EC) No. 1005/2008 of 29 September 2008) requiring all fish entering the Union to be accompanied by verified catch documentation and proof of chain of custody.

49. It is unclear whether these efforts are well guided. First, while illegal, unreported and unregulated industrial fishing is a problem, most of the catch of small-scale fishers goes unreported. Analogizing these catches to illegal fishing underestimates their role in contributing to food security and does not encourage the fishers concerned to shift to more responsible practices. Approaches to illegal, unreported and unregulated fishing should also acknowledge the function of fishing as an occasional activity for some coastal communities (including inland coastal communities), where it is an essential safety net in times of crisis. Second, the current approaches are not particularly effective in reducing illegal, unreported and unregulated fishing because of capacity gaps and weak governance in developing countries and lack of commitment by home countries of distant-water fishing fleets in investigating and prosecuting fishing firms abroad.[56] Third, the structural causes of illegal, unreported and unregulated fishing, such as overcapacity in the world's fishing fleet and inadequate support for communities who depend on fishing for their livelihoods, remain unaddressed. Without access to adequate social protection, without fair prices or if they are priced out of approaches based on the allocation of fishing rights through licences, these communities are not in a position to participate in regimes that seek to reduce overfishing or to combat illegal, unreported and unregulated fishing.

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[55] See Anja von Moltke, "WTO Negotiations on fisheries subsidies: a critical issue for Commonwealth countries", in *From Hook to Plate: The State of Marine Fisheries — A Commonwealth Perspective*, Mark Collins and Richard Bourn, eds. (London, Commonwealth Foundation, 2009).

[56] See D. J. Agnew and others, "Estimation of the cost of illegal fishing in West Africa" (see footnote 18).

B. Trade agreements

50. The Special Rapporteur has previously described the role that human rights impact assessments of trade and investment agreements can play in allowing countries to discharge their human rights obligations (see A/HRC/19/59/Add.5). Trade and access agreements in fisheries provide another such illustration. The above assessment of the potential opportunities and risks of such agreements (see paras. 29-32) may serve to identify the questions that should be asked in any impact assessment before the conclusion of an agreement by the coastal State. These are, for example:

(a) Will the agreement increase or decrease food availability in the coastal State? If food availability increases, either because of improved fishing capacity or because of the imports made possible by export revenue, is this sustainable in the long term to protect the coastal State from potential shocks?

(b) Is the agreement accompanied by measures aimed at improving local fishing capacity, in accordance with the United Nations Convention on the Law of the Sea?

(c) Are measures in place to ensure that small-scale fishers are equipped to benefit from the opportunities created by trade agreements, in particular by improving their ability to comply with standards and their bargaining position vis-à-vis buyers?

(d) Are measures in place to ensure that export-oriented fishing creates decent work opportunities to ensure an adequate standard of living? Overall, will the agreement increase the incomes of the poorest and most marginalized groups within the coastal communities, especially women?

(e) Are the licence and access agreements fair in sharing the benefits between the coastal State and the flag State under which the fishing vessels operate? Is the revenue from such agreements used to support poverty reduction in the coastal State?

51. These questions can be answered only in a context-specific way. It is essential that the answers be sought through participatory processes that involve, in particular, small-scale fishers and the coastal communities who will be most directly affected by the agreement in question.

C. Towards guidelines on sustainable small-scale fisheries

52. The FAO Committee on Fisheries is currently developing international guidelines for securing sustainable small-scale fisheries, a follow-up to the Global Conference on Small-Scale Fisheries, held in Bangkok in October 2008, and a complement to the Code of Conduct for Responsible Fisheries. The Special Rapporteur welcomes this important initiative, in which he intends to remain actively involved.[57] Linking the content of the guidelines to the norms and

[57] The Special Rapporteur has prepared a contribution examining how the right to food (substantive and procedural contents) should be applied to the international guidelines on small-scale fisheries under development. It is available from www.ohchr.org/EN/Issues/Food/Pages/Otherdocuments.aspx or www.srfood.org.

standards of international human rights law, including the right to food, is essential. Below, the Special Rapporteur offers general remarks on some key issues to be considered in the negotiations.

1. Access and tenure rights

53. Access rights of artisanal and small-scale fishing communities — more than 90 per cent of whom are in developing countries — are protected under various instruments. Under article 5 (i) of the 1995 Fish Stocks Agreement, States are required to take into account the interests of artisanal and subsistence fishers. In article 6.18 of the Code of Conduct for Responsible Fisheries, there is recognition of the important contributions of artisanal and small-scale fisheries to employment, income and food security, with States recommended to appropriately protect the rights of fishers and fish workers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.

54. Beyond general wording, however, disagreements exist about how user rights, which can range from individual to community-based rights, should be approached for the small-scale sector, and the overall aims of strengthening or changing user rights. One view is that a clarification and strengthening of access rights, including the use of transferable fishing quotas, would increase economic efficiency and avoid overfishing. Another view is that priority should be accorded to poverty-reduction objectives and to improving access to fishing rights by the communities most in need and who could be best placed to manage the common-pool resources concerned and monitor catches at the local level.

55. Individual transferable quotas systems may lead to rent capture by some actors in a privileged position, which is difficult to reconcile with poverty-reduction objectives. An alternative might be to allow operators to rent quotas from the Government so that quotas are periodically redistributed on equity grounds. Transferability of quotas (conceived as property rights) will inevitably lead to monopolization, unless limited to transferability between the deceased holder and his/her descendants (if they also fish). Indeed, the Human Rights Committee noted that a system in which the quotas originally held could be sold or leased at market prices instead of reverting to the State for allocation to new quota holders in accordance with fair and equitable criteria might result in discrimination in violation of article 26 of the International Covenant on Civil and Political Rights (see CCPR/C/91/D/1306/2004). Other systems can be explored that combine sustainability requirements (limiting overfishing) and redistributive aims based on human rights norms and standards.

56. There has been notable progress in providing exclusive rights to coastal areas for small-scale fishers. In many developing countries, Governments have introduced exclusive artisanal fishing zones, often under pressure from their small-scale sectors.[58] In Cambodia, community-based dialogues and participatory research on the causes of conflict and overfishing in Tonle Sap Lake (the largest freshwater lake in South-East Asia, providing employment to an estimated 3 million people)

[58] See Chandrika Sharma, "Securing economic, social and cultural rights of small-scale and artisanal fisherworkers and fishing communities", *Journal of Maritime Studies*, vol. 10, No. 2 (2011).

resulted in the cancellation of all commercial fishing licences and the establishment of community-based user rights for small-scale and subsistence fisheries. This success illustrates the positive poverty-reduction outcomes of community deliberation and participation in fisheries management.[59]

57. Progress in providing exclusive fishing zones for small-scale fishers notwithstanding, there are persistent and widespread complaints of violations, such as prohibited fishing by industrial boats and the damaging effects of other industries, including mining, port development, fish processing, coastal aquaculture and real estate development, especially linked to the tourism sector. There is growing conflict over the use of marine and aquatic resources, in particular owing to insecure land tenure for the members of small-scale fishing communities.[60] This underscores the important need for States to fully implement the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. It also highlights the need for programmes in which fishers collaborate with the authorities to monitor infringements of their exclusive fishing zones. Such programmes have been initiated in some countries with varying degrees of success.

2. Co-management

58. There is also growing recognition that top-down management strategies have proved unsuccessful for the small-scale sector. The active and meaningful participation by communities in the management of fisheries and the integration into decision-making of local or traditional knowledge of fish and marine habitats held by fishers is paramount. Indeed, there has been significant progress in terms of decentralization and co-management arrangements. Researchers recently identified 130 co-management schemes, covering 44 developed and developing countries, often showing how local communities have been able to develop legitimate institutions of self-governance and established sustainable approaches to managing fishing intensity and ecosystem impacts.[61]

59. Past co-management projects have a mixed record.[62] Some have been notable successes, in both developed and developing countries,[63] while others have led to less positive outcomes. Failures in co-management are partly explained by the fact that communities have been involved only in the implementation of policy, rather than in setting objectives of policy and ensuring that policymaking and evaluation are based on local knowledge of fish and marine ecosystems. The failure to integrate fishing communities into the design of policies affecting them, the top-down

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[59] See www.worldfishcenter.org/outcome/success-stories/building-resilient-community-fisheries-tonle-sap-lake-cambodia.

[60] See Edward H. Allison and others, "Rights-based fisheries governance: from fishing rights to human rights", *Fish and Fisheries*, vol. 13, No. 1 (March 2012).

[61] See Nicolás L. Gutiérrez, Ray Hilborn and Omar Defeo, "Leadership, social capital and incentives promote successful fisheries", *Nature*, vol. 470 (February 2011).

[62] For an assessment, see Christophe Béné and others, "Power competition, conflicts and alliances at local level: analysing 'democratic' decentralization of natural resources through the lenses of Africa inland fisheries", *World Development*, vol. 37, No. 12 (2009).

[63] See, for example, R. Townsend, Ross Shotton and H. Uchida, "Case studies in fisheries self-governance", FAO Fisheries Technical Paper, No. 504 (Rome, FAO, 2008). Available from www.fao.org/docrep/010/a1497e/a1497e00.htm.

creation of community-based organizations to carry out functions for the State[64] and approaches that are excessively donor-driven[65] or that are captured by elites[66] have all disappointed expectations. The solution to these difficulties is not to abandon co-management, but to build it in a more participatory way, based on the needs of the fishing communities. This in turn will be successful only if the livelihoods of fishers are also better secured, taking into account that the environment in which they operate, and the markets on which they depend, are increasingly risky. Only by linking fisheries management to the broader improvement of the economic and social rights of fishers, in a multisectoral approach that acknowledges how fishing fits into the broader social and economic fabric, can progress be made towards robust and sustainable solutions.

V. Conclusions and recommendations

60. **States should discharge their duties to respect, protect and fulfil the right to food in the fisheries sector by moving towards sustainable resource use while ensuring that the rights and livelihoods of small-scale fishers and coastal communities are respected and that the food security of all groups depending on fish is improved. This is a difficult balance to strike, but, without swift and bold action by States, the contribution made by fisheries to securing the right to food will diminish, with considerable consequences, in particular for poorer rural communities that depend on fisheries for both their nutritional needs and their income. Both coastal and flag States should accept their duties in this regard and should actively involve the fishing communities themselves, both in fisheries management and in the design and implementation of policies in adjacent sectors that could affect fishing.**

61. **Coastal States and landlocked States with inland fisheries should:**

(a) **Respect the existing rights of artisanal and small-scale fishing communities, consistent with article 5 (i) of the 1995 Fish Stocks Agreement and article 6.18 of the Code of Conduct for Responsible Fisheries, in addition to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security;**

(b) **Involve local fishing communities in the design, implementation and assessment of the fisheries policies and interventions affecting them, in accordance with human rights norms and standards and article 10.1.2 of the Code of Conduct for Responsible Fisheries, and establish grievance mechanisms allowing them to protect the rights that may be affected by such policies and interventions;**

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[64] See Jesper Raakjær Nielsen and others, "Fisheries co-management — an institutional innovation? Lessons from South East Asia and Southern Africa", *Marine Policy*, vol. 28 (2004).

[65] Donor-driven co-management, where capacity-building is supported by development aid, does not necessarily encourage fisheries authorities to engage with communities, apart from where financial incentives are concerned. External support to co-management schemes, of course, is welcomed, provided that it involves the communities concerned in a bottom-up fashion.

[66] Co-management has sometimes led to capture by elites. Communities are not homogenous entities: there are important class and gender divisions that can be accentuated through decentralization policies. See Christophe Béné and others, "Power competition" (footnote 62).

(c) Refrain from taking measures, including large-scale development projects, that may adversely affect the livelihoods of inland and marine small-scale fishers, their territories or access rights, unless their free, prior and informed consent is obtained, and ensure that courts protect such rights; and conduct ex-ante assessments of extractive industry projects, such as sand extraction, operated by private entities in order to evaluate the possible negative human rights impacts on local fishing communities;

(d) Consistent with the pledge made at the United Nations Conference on Sustainable Development (see para. 175 of the outcome document), strengthen access to fishery resources and improve the incomes of small-scale fishing communities by:

(i) Regulating the industrial fishing sector to protect the access rights of traditional fishing communities;

(ii) Considering the introduction of exclusive artisanal fishing zones and exclusive user rights for small-scale and subsistence fisheries, where appropriate;

(iii) Strengthening the position of small-scale fishers in the production chain, for example by supporting the formation of cooperatives and assisting them to expand into the high-added-value stages of the industry;

(iv) Supporting fishers' groups wishing to gain access to export markets under conditions that provide decent employment and promote sustainable fisheries management;

(v) Providing adequate social protection or safety net interventions to communities who depend on fishing for their livelihoods, in order to reduce the need for food-insecure and/or low-income groups to engage in coping but unsustainable fishing practices in times of crisis;

(vi) Taking measures that support the role of women in the fisheries sector, for example by ensuring access to credit for women and providing adequate facilities for them at landing sites;

(e) Support sustainable aquaculture practices that benefit local communities and agroecological fish-farming practices, including rice-fish or rice-shrimp systems;

(f) Integrate issues related to fisheries into cross-sectoral national strategies on the right to food and ensure, through adequate interministerial coordination, that progress in moving towards sustainable fisheries management is not impeded by developments in other sectors, including mining, hydropower generation, port infrastructure and real estate, especially that linked to the tourism sector;

(g) Conduct human rights impact assessments involving the participation of the fishing communities who could potentially be affected before fishing access agreements are concluded (see A/HRC/19/59/Add.5).

62. Flag States should protect labour rights in the fishing industry, including by ratifying and implementing the Convention concerning Work in the Fishing Sector (Convention No. 188). In addition, flag States should:

(a) **Combat exploitative labour conditions that affect undocumented migrants in particular and ensure the implementation of all labour rights, including the rights to collective bargaining, living wages and basic labour benefits;**

(b) **When engaging in fishing access agreements, agree to introduce provisions concerning conditions of work in the fishing industry; support the preparation of human rights impact assessments; and support the efforts of coastal States to regulate the fishing practices of industrial vessels operating in exclusive economic zones.**

63. **To preserve the long-term sustainability of fishing and the availability of local fish as food, in particular by combating overfishing, all States should:**

(a) **Act in accordance with the pledge made at the United Nations Conference on Sustainable Development (see para. 173 of the outcome document) to abolish subsidies for fuel or boatbuilding to the industrial fishing sector and review all other subsidies to ensure that they contribute to the realization of the right to food (domestically and extraterritorially), in particular for small-scale fishers in developing countries. While the members of WTO are encouraged to meet their commitment to clarify and improve WTO disciplines on fisheries subsidies, the abolishment of the subsidies negatively affecting the right to food should not be made conditional on arriving at a multilateral agreement;**

(b) **Implement their commitments under the Plan of Implementation of the World Summit on Sustainable Development, including to reduce their fishing capacity and to create marine protected areas, while taking into account the food security of coastal fishing communities;**

(c) **Support the establishment of co-management and community-based schemes wherein public entities engage with fishing communities in designing and implementing sustainable approaches to managing fishing intensity and ecosystem impacts;**

(d) **Implement the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, while taking into account the role of occasional fishing as a safety net in times of crisis for some coastal communities and recognizing the essential difference between unreported fishing by small-scale fishers and illegal industrial fishing;**

(e) **Reduce the proportion of fish used for fishmeal purposes, including by promoting direct human consumption of some small and nutritious fish, curbing demand for fish proteins from fish higher up the food chain (such as tuna and salmon or farmed carnivorous species such as prawns) by affluent consumers, which leads to overexploitation of marine resources worldwide, and considering imposing restrictions on the proportion of fish that can be used for reduction purposes.**

64. **The Special Rapporteur encourages the FAO Committee on Fisheries:**

(a) **To ensure that the international guidelines for securing sustainable small-scale fisheries, to be negotiated in 2013, involve the active and meaningful participation of fishers' organizations and are consistent with existing international human rights norms and standards;**

(b) **To ensure that the guidelines include a mechanism to facilitate discussion of both good practices and issues of concern with regard to their implementation, based on the participation of and information provided by fishing communities, given that such a mechanism would strengthen the implementation of the guidelines and accelerate collective learning among States.**

65. **The Special Rapporteur welcomes the fisheries transparency initiative to be launched by the World Bank and encourages it to ground this initiative in the human rights analytical and normative framework.**

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Item 70 (a) of the provisional agenda*
Promotion and protection of human rights: implementation of human rights instruments

United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

Report of the Secretary-General

Summary

The present report, which is submitted in accordance with General Assembly resolution 46/122, describes the recommendations for grants to beneficiary organizations that were adopted by the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery at its sixteenth session, held in Geneva from 28 November to 5 December 2011. It also provides information on policy decisions adopted by the Board.

* A/67/150.

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I. Introduction

A. Submission of the report

1. The present report was prepared in accordance with the arrangements approved by the General Assembly in its resolution 46/122, by which it established the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (the Fund). It presents the recommendations for grants adopted by the Board of Trustees of the Fund at its sixteenth session, held in Geneva from 28 November to 5 December 2011. The United Nations High Commissioner for Human Rights approved those recommendations on behalf of the Secretary-General on 30 December 2011.

B. Mandate of the Fund

2. In line with resolution 46/122, the Fund was established in 1991 with the purpose of extending humanitarian, legal and financial aid to individuals whose human rights have been severely violated as a result of contemporary forms of slavery. The Fund receives voluntary contributions from Governments, non-governmental organizations, private or public entities and individuals.

C. Administration of the Fund and Board of Trustees

3. The Secretary-General administers the Fund through the Office of the United Nations High Commissioner for Human Rights (OHCHR), with the advice of a Board of Trustees and in accordance with the Financial Regulations and Rules of the United Nations.

4. The Board of Trustees is composed of five members with relevant experience in the field of human rights and, in particular, in issues of contemporary forms of slavery. They serve in their personal capacity and are appointed by the Secretary-General with due regard to equitable geographical distribution and in consultation with their Governments. In June 2011, the Secretary-General renewed the mandates of Ms. Virginia Herrera Murillo (Costa Rica) and Ms. Klara Skrivankova (Czech Republic) for a final term ending on 31 December 2013 and appointed Ms. Asma Jahangir (Pakistan), Mr. George Omona (Uganda) and Mr. Michael Beresford Dottridge (United Kingdom of Great Britain and Northern Ireland) as new members for a first term, renewable once, ending on 31 December 2013. At the sixteenth session, Ms. Herrera Murillo was appointed Chair by acclamation for one year.

5. Pursuant to recommendations formulated by the Office of Internal Oversight Services (OIOS) in its audit report on the United Nations Voluntary Fund on Contemporary Forms of Slavery of 2007, as at 1 January 2012, the secretariats of the Fund and the United Nations Voluntary Fund for Victims of Torture were placed within the Human Rights Treaties Division of OHCHR. A post of Secretary of both Funds was established, and a new post for a fundraiser dedicated to the humanitarian funds was created within the Human Rights Treaties Division and is located in the Donors and External Relations Section of OHCHR.

II. Management of grants

A. Admissibility criteria

6. In accordance with the mandate of the Fund established by the General Assembly in its resolution 46/122, the beneficiaries of assistance from the Fund would include individuals whose human rights have been severely violated as a result of contemporary forms of slavery. Project admissibility criteria are outlined in the Fund's guidelines.

7. The beneficiary organizations are requested to accept all conditions attached to the grant, such as providing additional documents and/or mid-year and final narrative and financial reports on the use of grants by a given deadline. Upon receipt of this confirmation, the secretariat of the Fund requests the financial services of the United Nations Office at Geneva to disburse funds promptly.

8. The deadline for submitting applications for project grants for 2012 was 31 May 2011; the admissible applications were examined by the Board of Trustees at its sixteenth session. The deadline for submitting applications for project grants for 2013 was 31 May 2012. The admissible applications will be examined by the Board of Trustees at its seventeenth session, to be held in Geneva from 3 to 7 December 2012.

B. Monitoring and evaluation by the Board and the secretariat

9. At its sixteenth session, the Board of Trustees reviewed the situation with regard to the use of previous grants (2001-2010) and remaining reporting obligations, and recommended closing some 149 project files. The Board expressed appreciation that evaluation and monitoring visits to organizations already funded by the Fund or to potential grantees have been undertaken by the Fund secretariat, OHCHR field presences and United Nations country offices and agencies, in Azerbaijan, Bangladesh, Cambodia, Cameroon, Colombia, Côte d'Ivoire, the Democratic Republic of the Congo, Ecuador, France, Haiti, Ireland, Israel, Kyrgyzstan, Lebanon, Liberia, Mauritania, Mexico, Nepal, Romania, the Russian Federation, Senegal, South Sudan, Switzerland, Thailand, Togo, Viet Nam, Uganda and the United Kingdom of Great Britain and Northern Ireland.

III. Financial status of the Fund

10. Between 2009 and 2011, annual voluntary contributions to the Fund decreased by 50 per cent, from an all-time high of $886,482 in 2009 to $457,034 in 2011. This is largely attributed to the ongoing financial crisis, which made it difficult to meet the ever-increasing demands for assistance.

11. The tables below show the contributions and pledges received in 2010, 2011 and 2012.

Table 1
Contributions received in 2010

Donor	*Amount (United States dollars)*	*Date of receipt*
States and other entities		
Cyprus	3 480.69	15 November
Egypt	5 000.00	19 April
Germany	369 913.69	19 August
Holy See	1 476.50	17 March
Israel	5 000.00	25 February
Japan	30 000.00	28 June
Spain	26 773.76	29 December
Turkey	6 000.00	23 August
United Arab Emirates	29 977.40	11 March
Total contributions	**477 622.04**	

Table 2
Contributions and pledges received in 2011

Donor	*Amount (United States dollars)*	*Date of receipt*
Contributions		
States and other entities		
Cyprus	2 702.10	29 November
Germany	296 296.30	11 May
Greece	39 421.84	3 January
Holy See	1 500.00	9 September
Israel	5 000.00	13 July
South Africa	7 507.51	24 January
Spain	27 359.78	3 February 2012[a]
Turkey	6 000.00	12 December
United Arab Emirates	29 982.00	9 May
United Kingdom of Great Britain and Northern Ireland	40 128.41	7 October
Total, States and other entities	**457 033.81**	

Donor	*Amount (United States dollars)*	*Date of receipt*
Private/public entities		
Individuals	1 135.87	January
Total, private/public entities	**1 135.87**	
Pledges		
Belgium	142 450.14	
Qatar	10 000.00	
Total pledges	**152 450.14**	

[a] Recorded as a 2011 contribution.

Table 3
Contributions and pledges received from 1 January to 10 July 2012

Donor	*Amount (United States dollars)*	*Date of receipt*
Contributions		
Germany	332 005.31	12 April
India	30 000.00	4 April
Israel	20 000.00	10 July
United Arab Emirates	30 000.00	16 March
United Kingdom of Great Britain and Northern Ireland	31 645.57	21 March
Total contributions	**443 650.88**	
Pledges		
Turkey	6 000.00	
Total pledges	**6 000.00**	

IV. Sixteenth session of the Board of Trustees

12. The sixteenth session of the Board of Trustees of the Fund was held in Geneva from 28 November to 5 December 2011. Ms. Jahangir was unable to attend the session.

13. At the session, the Board of Trustees examined information prepared by the secretariat concerning the implementation of recommendations adopted at its fifteenth session, the financial situation of the Fund, policy issues, fundraising efforts, applications for project grants, and financial and narrative reports on the use of previous grants. In line with the guidelines of the Fund and the Board's policies, the Board took into account the importance of the gender dimension, thematic

priorities and national and regional distribution when considering new applications for project grants.

14. It discussed cooperation with other United Nations bodies, mechanisms and procedures, including cooperation with the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children (Trafficking Fund) administered by the United Nations Office on Drugs and Crime (UNODC) and the United Nations Voluntary Fund for Victims of Torture, the fellowship programme, the follow-up to the implementation of the OIOS recommendations formulated in 2007 and the activities undertaken in 2011 to mark the twentieth anniversary of the establishment of the Fund.

A. Recommendations adopted by the Board of Trustees

15. The Board of Trustees examined 318 admissible applications for project grants from 77 countries, amounting to approximately $4,183,000. Approximately 116 applications were declared inadmissible. The Board recommended 52 project grants for a total amount of $497,000, which will assist non-governmental organizations in 41 countries in the five regions of the world.

16. Figures I and II below illustrate the breakdown of the 52 approved grants, by region and by type of contemporary slavery:

Figure I
Grants awarded by region

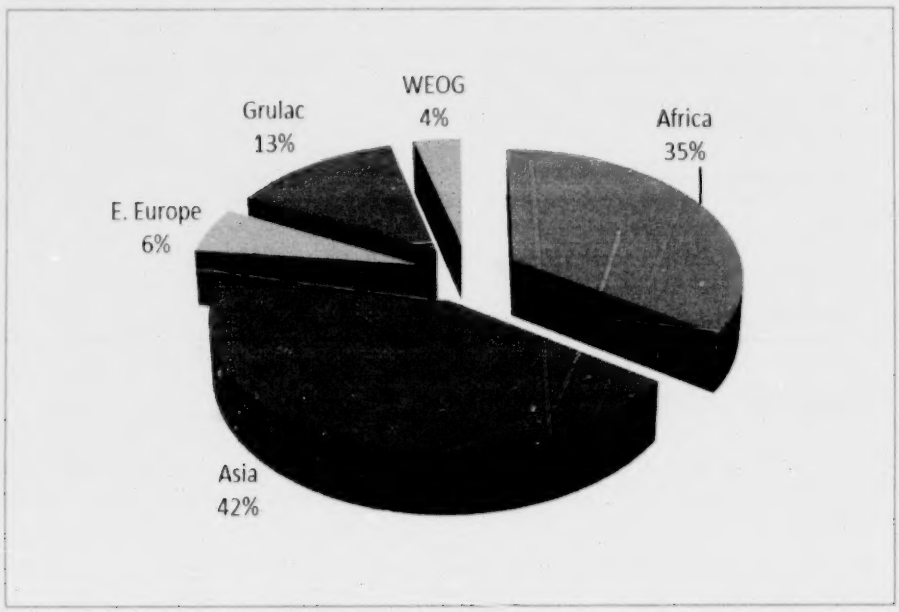
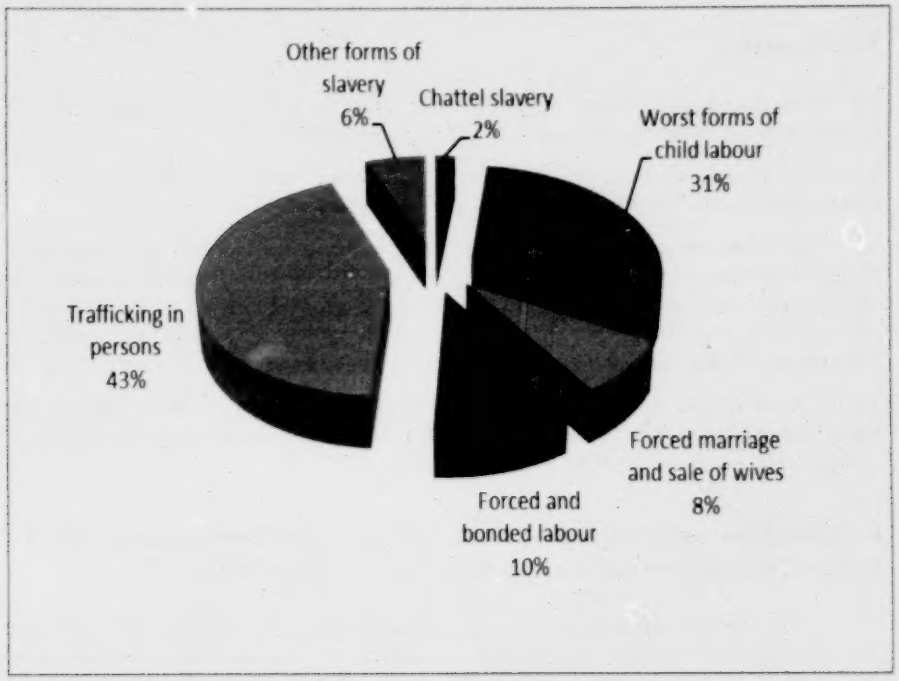


Figure II
Grants awarded by type of contemporary slavery


Other forms of slavery 6%
Chattel slavery 2%
Worst forms of child labour 31%
Trafficking in persons 43%
Forced marriage and sale of wives 8%
Forced and bonded labour 10%

B. Policy decisions

17. The Board of Trustees recommended that projects be selected based on the quality of the project, geographical distribution, type of assistance provided and gender balance. It reiterated the need to support projects adopting a strategy that addresses the root cause of the problem, combined with direct assistance and income-generating activities that assist victims of contemporary forms of slavery.

18. The Board of Trustees endorsed maintaining a one-year funding policy. Subject to funding availability, organizations can receive funding for up to five consecutive years, after which a break of at least one year is required. Out of the 52 project grants approved at the sixteenth session, 23 were approved for organizations that had previously received funding from the Fund.

19. At its fourteenth session, the Board of Trustees recommended the establishment of a fellowship programme for members of human rights organizations, notably those working on contemporary forms of slavery. The programme is aimed at providing an opportunity to gain first-hand experience, knowledge and skills in the field of international human rights in general and in contemporary forms of slavery in particular.

20. In line with this recommendation, the fellowship programme was established for an initial period of four months, from August to December 2010. Owing to the

effectiveness of the programme, the Board recommended that two fellowships be extended for an additional period from January 2011 to September 2012.

C. Fundraising

21. The Board of Trustees noted that the Fund is currently working with the minimum level of required resources to fulfil its mandate.

22. The Board estimated that the Fund would need at least $1.5 million before its seventeenth session in 2012 to satisfactorily meet demand.

23. The Board noted the statement made by the Secretary-General on 2 December 2011 for the International Day for the Abolition of Slavery, in which he appealed to all Governments, business enterprises, non-governmental organizations and other partners to demonstrate their commitment to fighting slavery by making a financial contribution to the Fund and by working closely together to end that scourge.

24. The Board decided that in the second semester of 2012, a letter signed by the Chair should be sent to all Permanent Missions to the United Nations Office at Geneva appealing for contributions to the Fund.

D. Cooperation with United Nations agencies and developments in the United Nations system concerning relevant mandates

25. At its sixteenth session, the Board of Trustees met with the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (hereinafter the Special Rapporteur). The Special Rapporteur briefed the Board about developments relating to her mandate and discussed future collaboration with the Fund in terms of dissemination of information and support for country missions.

26. The Board recommended that a budget line be allocated to cover travel expenses of selected grass-roots non-governmental organizations to enable them to attend regional, subregional and national meetings organized within the framework of the country visits of the Special Rapporteur. These non-governmental organizations also contribute to the implementation of the recommendations made by the Special Rapporteur in her reports.

27. The Board also met with a representative from the secretariat of the Trafficking Fund at UNODC to discuss potential channels of collaboration and synergies between both Funds. The Board was briefed on the various types of projects supported by the Trafficking Fund in the first cycle of grants and on its monitoring and evaluation mechanisms.

28. The Board recommended that the secretariats of the two Funds organize regular meetings to ensure continued collaboration with the aim of avoiding duplication of work. In addition, awareness-raising materials should also include cross references to both Funds.

V. International Day for the Abolition of Slavery and twentieth anniversary of the Fund

29. In September 2011, a photograph exhibition entitled "Breaking free from slavery: a visual journey through 20 years of assistance to victims of contemporary forms of slavery" was on display at the United Nations Office at Geneva. The exhibition was opened by the High Commissioner for Human Rights, the Special Rapporteur and the Vice-Chair of the Board of Trustees. In addition, at the eighteenth session of the Human Rights Council, the Board of Trustees organized a joint side event with the Special Rapporteur on child slavery in the mining and quarrying sector.

30. On 2 December 2011, an event was organized in Geneva to commemorate the International Day for the Abolition of Slavery. Members of the Board of Trustees, the Special Rapporteur on contemporary forms of slavery and three grant beneficiaries delivered presentations, followed by an interactive dialogue. The event was attended by over 20 States representatives and representatives of civil society.

31. On 2 December 2011, the Board also made the following statement to commemorate the International Day for the Abolition of Slavery:

> The United Nations marks 2 December each year as the International Day for the Abolition of Slavery to remind the international community that slavery is not a practice that has been banished, but one which continues to blight lives and to demand action to prevent contemporary forms of slavery and to protect and assist more than twelve million adults and children who are currently victims.
>
> These practices include but are not limited to debt bondage, serfdom, forced labour, trafficking in persons and trafficking for the purpose of organ removal, sexual slavery, various forms of child labour, the forced or compulsory recruitment of children for use in armed conflict, forced marriage, the sale of wives and widow inheritance. These and other forms violate the most fundamental of human rights and the fundamental dignity of the human being.
>
> The past 12 months have seen exciting initiatives to encourage the world's business enterprises to respect human rights (the Human Rights Council endorsed the Guiding Principles on Business and Human Rights: the Implementation of the United Nations "Protect, Respect and Remedy" Framework in June 2011) and the trustees of the Fund welcome the news that businesses around the world have made new commitments to stopping contemporary forms of slavery from occurring in their workplaces or supply chains. While Governments bear the primary responsibility for the implementation of human rights, the private sector also has an integral role to play in eradicating contemporary forms of slavery.
>
> The time is ripe for concerted action by business to ensure their activities do not cause or contribute to contemporary forms of slavery (or other adverse human rights impacts) and to refuse to do business with any companies which are shown to use or profit from forced labour. Businesses should include human rights principles, in compliance with international agreements ratified by the country in which they operate and when they operate internationally,

including provisions on the prevention of and protection against forced labour, in their contracts with joint venture partners, suppliers and subcontractors.

This year marks the twentieth anniversary of the establishment of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, a Fund that was created to support efforts by non-governmental organizations (NGOs) to help victims of contemporary forms of slavery to regain their independence, lives and dignity. The Fund has provided support to more than 400 projects which have directly assisted thousands of victims and potential victims in more than 90 countries in all regions of the world. Projects undertaken with the support of the Fund include medical, psychological, legal, educational, and vocational training and income-generating activities for victims of contemporary forms of slavery while fighting the social factors that create circumstances fostering slavery.

On this day, the five trustees of the Fund pay tribute to all Governments, civil society organizations and individuals who have made contributions to the Fund or otherwise engaged in activities aimed at eradicating contemporary forms of slavery and ensuring that all those subjected to such exploitation are assisted in recovering so they can live decent lives.

On this occasion, we recall that the Fund needs a minimum of $1.5 million per year to fulfil its mandate, but less than a third of this amount has been secured so far. We join in on the appeal made today by the Secretary-General, to all Governments, business enterprises, non-governmental organizations and other partners to demonstrate their commitment to fighting slavery by making a financial contribution to the Fund and by working closely together to end this scourge.

We express our profound commitment to the ongoing struggle against slavery and particularly to the victims.

VI. How to contribute to the Fund

32. Governments, non-governmental organizations and other private or public entities can contribute to the Fund. Donors should indicate "for the Slavery Fund, account SH" on a payment order. For information on how to contribute, donors are requested to contact the secretariat of the Fund at: Secretariat of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, Office of the United Nations High Commissioner for Human Rights, United Nations, CH 1211 Geneva 10, Switzerland; E-mail: slaveryfund@ohchr.org; Telephone: 41 22 917 9376; Fax: 41 22 917 9017.

VII. Conclusions and recommendations

33. **Owing to the funding constraints, at its sixteenth session, the Board of Trustees was able to recommend only 52 grants amounting to $497,000, which represents approximately 10 per cent of the total amount requested. The Board estimates that, in order to be able to fulfil its mandate and respond positively to new applications received in 2012, the Fund would need new contributions**

amounting to at least $1.5 million prior to the seventeenth session of the Board, to be held from 3 to 7 December 2012.

34. **In the light of the difficult financial situation faced in 2011, donors and potential donors are encouraged to increase their support to the Fund so that it can expand its crucial assistance to victims of slavery. In respect of the next cycle, donors are invited to contribute to the Fund before November 2012 in order for the contributions to be duly recorded by the United Nations Treasurer in advance of the seventeenth session of the Board.**

United Nations A/67/270

General Assembly

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Sixty-seventh session
Item 14 of the provisional agenda*
Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Integrating non-discrimination and equality into the post-2015 development agenda for water, sanitation and hygiene

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, in accordance with Human Rights Council resolution 16/2.

* A/67/150.

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Report of the Special Rapporteur on the human right to safe drinking water and sanitation

Summary

The Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, submits the present report to the General Assembly in accordance with Human Rights Council resolution 16/2. In the report, the Special Rapporteur argues for a post-2015 development agenda that integrates equality and non-discrimination, paired with equity. The report emphasizes the importance of proposing goals, targets and indicators that effectively encompass these dimensions. The human right to water and sanitation serves as an exemplary illustration of the importance of these human rights principles. The inclusion of equality and non-discrimination considerations in the design and implementation of policies and programmes benefits the most marginalized members of society and those most discriminated against. They also contribute to the reduction of gaps in access to fundamental services around the world. Additionally, the Special Rapporteur underlines the need to ensure that water, sanitation and hygiene are considered on equal footing with other priorities, by devoting a specific goal to these areas for the post-2015 framework.

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I. Introduction

1. The present report is submitted to the General Assembly by the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, in accordance with Human Rights Council resolution 16/2, in which the Council encouraged her to report annually to the General Assembly.

2. In her report to the General Assembly at its sixty-fifth session (A/65/254), the Special Rapporteur provided an analysis on how the human right to water and sanitation can enable a comprehensive and sustainable achievement of target 7.C of the Millennium Development Goals. This target was set to halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation. The report examined how human rights can address a number of blind spots of the Millennium Development Goals, notably their silence regarding non-discrimination and equality. It offered recommendations on how a human rights framework can bring specific attention to the most marginalized and disadvantaged groups, ensure universal access, promote intersectoral approaches and strengthen participation and accountability.

3. The discussion on the post-2015 development agenda presents an unprecedented opportunity to take this critical analysis a step further and to provide concrete recommendations for the future development framework. In the present report, the Special Rapporteur argues that this agenda cannot advance without integrating equality and non-discrimination. The current report emphasizes the importance of proposing goals, targets and indicators that explicitly encompass these dimensions, based on the human rights framework which entails legally binding obligations for all States Members of the United Nations. The Special Rapporteur is of the view that the human right to water and sanitation serves as an exemplary illustration of the importance of these principles in any future human development agenda.

4. Furthermore, she argues that the human right to water and sanitation should be integrated in the goals, targets, indicators and monitoring mechanisms for the post-2015 development framework. She calls for a development agenda that purposely aims at reducing gaps between the "haves" and "have-nots", while also focusing on the most economically and socially deprived and marginalized members of society.

5. The world has changed significantly since the formulation of the Millennium Development Goals in 2000. The global crises in food, finance, economy and the environment have generated considerable concern within development circles. Climate change has an enormous impact on environmental sustainability and the lives of billions,[1] and in combination with population growth, ageing and increased urbanization, places particular stress on current and future access to water and sanitation. In fact, the growth of global water demand is already outpacing population growth.

6. Growing inequalities across and within regions and countries are increasingly signalled to counter some of the achievements of the Millennium Development Goals. Some States have become more aware of the high social cost of inequalities, resulting in disillusionment — in particular among youth — instability and violence.

[1] See Tony Addison and others, "The triple crisis and the global aid architecture", *African Development Review*, vol. 23, No. 4 (December 2011).

Inequalities hinder efforts for poverty reduction and economic growth,[2] negatively affecting society as a whole.[3] In fact, the World Economic Forum cited inequality as one of the top global risks.[4] For major international actors and agencies, including the United Nations Children's Fund (UNICEF) and the United Nations Entity for Gender Equity and the Empowerment of Women (UN-Women), addressing inequalities is vital.

7. Just as the state of the world has changed in the last decade, it has also brought about some evolution in the human rights agenda, enhancing the tools to address growing concerns about inequality in the enjoyment of economic, social and cultural rights. While the right to water and sanitation has always been a component of the right to an adequate standard of living as contained in several international human rights instruments, its explicit recognition in 2010 created an enormous momentum in the sector, galvanizing international support around providing resources, building capacities, and scaling up efforts to provide water and sanitation for all (see General Assembly resolution 64/292 and Human Rights Council resolution 15/9).

8. In 2011, the Human Rights Council urged States and other development partners to adopt an approach based on the right to safe drinking water and sanitation when designing and implementing future development programmes (A/HRC/RES/18/1, para. 9). Similarly, the recent United Nations Conference on Sustainable Development (Rio+20) reaffirmed the commitments of Governments regarding the human right to water and sanitation, to be progressively realized for the population.[5] More generally, a deeper understanding of economic, social and cultural rights in the past decade, coupled with further articulated guidance about the role of non-discrimination in the realization of these rights[6] has allowed for a more discernible human rights framework around these issues. These evolutions must permeate a post-2015 global development agenda.

9. The present report is informed by the Special Rapporteur's work during the past four years in direct contact with a wide range of stakeholders, including national and local authorities, international actors, civil society organizations and in particular with children, women and men of all ages whose access to water and sanitation is often denied by direct or indirect forms of discrimination. In all her country missions, the Special Rapporteur has become acutely aware of the structural causes of lack of access to water and sanitation, many of which are rooted in unequal enjoyment of human rights by specific individuals and communities.

10. The Special Rapporteur has benefited from her involvement in the process led by the World Health Organization (WHO) and UNICEF, known as the Joint Monitoring Programme for Water Supply and Sanitation, which is officially charged with monitoring progress on the water and sanitation target. As 2015 draws closer, the Joint Monitoring Programme has started to discuss options for post-2015

[2] Claire Melamed, "Putting inequality in the post-2015 picture", Overseas Development Institute (March 2012), p. 4.

[3] United Nations System Task Team on the Post-2015 United Nations Development Agenda, Thematic Think Piece, "Addressing inequalities: the heart of the post-2015 agenda and the future we want for all" (May 2012), p. 6.

[4] World Economic Forum, *Global Risks Report 2012*, Seventh Edition (Geneva, 2012), p. 19.

[5] Outcome of the United Nations Conference on Sustainable Development, Rio de Janeiro, 20-22 June 2012 (General Assembly resolution 66/288, annex), para. 121.

[6] General comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

monitoring. In this context, there is a shared understanding among engineers, statisticians, economists and human rights lawyers that the Millennium Development Goals did not put sufficient pressure on Governments to ensure their efforts are reaching the poorest and most marginalized populations.[7]

11. The Joint Monitoring Programme has created four working groups that are examining water, sanitation, hygiene and equity[8] and non-discrimination, respectively. The Special Rapporteur serves as Chair of the Working Group on Equity and Non-Discrimination, and has participated in the discussions in the other three working groups. Their role is to advise decision makers on potential goals, targets and indicators for the post-2015 development agenda and to assess the technical feasibility of monitoring. The Working Group on Equity and Non-Discrimination is made up of human rights experts, sector professionals and data specialists, seeking to lay out proposals that meet human rights standards, that are relevant to the sector and that are feasible from the perspective of data collection.

12. In the view of the Special Rapporteur, the findings and recommendations of the Working Group on Equity and Non-Discrimination at its May 2012 meeting bring a valuable and much-needed multisectoral expertise to this global discussion. However, she wishes to note that the present report reflects only her own position and understanding of how to integrate equality and non-discrimination into the future framework as a whole. In her opinion, these findings can also be used for discussion of the post-2015 agenda for other sectors, including health, education and access to other essential services.

13. The report is organized in three main sections. It starts by exploring the importance of global monitoring and human rights in order to effectively address discrimination and inequality. It situates these questions in the broader discussion on how non-discrimination and equality should be integrated in future goals, targets and indicators across the board and also specifically in relation to water, sanitation and hygiene as a priority development area no longer to be subsumed under other sectors. It discusses proposals for monitoring non-discrimination and equality, inter alia, specifically for marginalized groups, addressing geographic inequalities, individual and group inequalities relevant to every country in the world, and for intrahousehold access to water and sanitation services before ending with a set of conclusions and recommendations.

II. Development, global monitoring and human rights

A. The need for global monitoring

14. In September 2000, world leaders adopted the United Nations Millennium Declaration, making an unprecedented commitment to eradicate global poverty (see General Assembly resolution 55/2). This high-level political commitment and the subsequent focus on a set of measurable, time-bound Goals created a common framework for assessing progress among countries by 2015. The Millennium

[7] See WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation, Report of the first Consultation on Post-2015 Monitoring of Drinking-Water and Sanitation, Berlin, 3-5 May 2011.

[8] See sect. III of the present report for a definition of equality and equity.

Development Goals placed key issues on the agenda that might have otherwise been neglected. As a result, most Governments, development banks and donors have attempted to deliver on what was agreed upon to measure: a limited number of priority areas for development. These areas have become the top priorities for national and international policymaking, budget allocations, and the targeting of development assistance. The seemingly aloof international framework has had a direct and concrete impact on people's lives, their health and well-being.

15. The Millennium Development Goals were never intended as national goals; however, they have often been translated as such. Their impact on national policymaking and monitoring is undeniable. Monitoring at the national and global levels has distinct purposes, ideally complementary ones. While national-level monitoring serves for national policymaking, planning and financing, global monitoring speaks to the interest of the international community to determine whether progress on international agreed goals has been reached. It is more focused on identifying broad trends and recurrent themes across the globe — serving to put certain issues on the agenda and providing a platform for advocacy. Global monitoring also adds the element of comparability, hence setting incentives for States to make the same or better progress as neighbouring countries or States in a similar position. Despite these distinct monitoring purposes, the impact of the global framework in influencing national priorities cannot be underestimated. Issues that do not receive attention at the global level also tend to be disregarded in national policymaking.

16. Inequalities are present in every country across the globe, yet, they manifest themselves differently across regions and within countries. Some types of discrimination, such as those based on gender, age or disability status, are relevant across most, if not all, countries, while others — such as ethnic or related discrimination — can take varied shapes from country to country. Despite these country differences, inequalities and disparities are structural factors with direct impact in development, hence they cannot be left out from a global framework. While the specific groups may vary, patterns of marginalization, exclusion and discrimination are consistent across the world. Showing these patterns and trends across the world through global monitoring conveys a very powerful message and provides a tool to draw attention to the situation of the most disadvantaged and marginalized, helping to target efforts towards them.

B. The power of data: delivering on what is measured

17. The target on water and sanitation, for example, has encouraged Governments to allocate resources towards improving access to water. In recent years, there is more attention to access to sanitation, in part owing to its notorious status as one of the "most off track" of the targets. Monitoring of issues such as open defecation has moved policymakers to recognize significant issues relating to dignity, health and human rights. Some Governments have initiated campaigns to eradicate open defecation practices. As such, in her country missions, the Special Rapporteur has observed that the monitoring of access to water and sanitation services has provided decisive information to encourage and convince Governments, policymakers and donors to revisit their policies and to engage more effectively with the water and sanitation sector, in order to ensure the provision of services.

18. However, the downside of delivering on what is measured is that there are fewer incentives to work on the areas which are not required for reporting purposes. As the Millennium Development Goals provide no comprehensive framework for development and remain blind to other critical human rights issues, significant issues are sidelined. Many targets focus on achieving a certain increase or decrease — such as halving the population without access to water and sanitation — with little incentive for Governments to go beyond that target.

19. Other significant omissions remain unmonitored. Water quality is one of them. While the target calls for access to "safe" water, the accompanying indicator uses a proxy ("improved") that fails to capture the safety dimension adequately. Hence, States report on having met the water target even when in reality they are supplying water that is unsafe to drink and that may cause disease and possibly death. The same holds true for the management of excreta and wastewater that is not monitored, allowing pollution to continue unabated and further contaminating water. Finally, the focus on aggregate outcomes provides no particular incentive to reach marginalized groups. During her missions, the Special Rapporteur is often faced with incomprehension by policymakers in countries that are "on track" regarding the water target, when she comments on the lack of access by slum dwellers or people in rural areas, or the lack of quality of tap water. The target may be achieved but access to water and sanitation as guaranteed by human rights remains unequally enjoyed by many.

20. The realization of human rights, including the human right to water and sanitation, is a concern for every single country in the world. The post-2015 agenda should reflect this by adopting a universal perspective that applies to all countries. The focus on achieving equality is relevant for any country in the world, including developed countries, where a relatively small number of people are left behind and aggregate targets may not capture the progress needed to reduce the number of people without access, making efforts seem meaningless.

21. There is no doubt that future goals, targets and indicators in the post-2015 development framework will influence fundamental decisions on legislation, policymaking and budgeting in the coming decades. The compromises made in the development of the Millennium Development Goals, such as the failure to address water safety, must not be repeated. The new framework must be comprehensive and must ensure that Governments address the most pertinent issues and target the populations most in need. For the next set of goals, it is not enough to attempt to resolve tensions by disregarding development challenges simply because they do not fit into certain definable categories or reshaping them to fit with comfortable limits of knowledge. The way forward requires a leap towards changing the status quo to improve the lives of those most affected by these policies.

22. While many caution that future targets and indicators need to be measurable, and this is certainly true, there is also a tendency to hide behind this technical argument. Others have noted that measurability is an inappropriate standard for political decisions on deprioritizing certain issues, and that data should "be seen as a servant, rather than a master".[9] The current lack of data should not be used as an argument against future monitoring. Rather, the Special Rapporteur calls for data to be collected on certain issues precisely to bring them to light. The current lack of

[9] United Nations System Task Team, "Addressing inequalities", p. 13 (see footnote 3 above).

data on certain issues is not accidental. Neglect often coincides with a low political profile. For example, in many countries, people living in informal settlements do not appear in the official statistics, even when they represent a high percentage of the population in major cities. In that regard, the Special Rapporteur calls for pushing the boundaries of what is currently perceived as measurable. A commitment to better and more accurate data collection as part of the global framework is essential to identifying and monitoring inequalities, a crucial step to making progress to end them.

23. As a final word on measures and monitoring, it must be noted that there are significant differences between the aim and purpose of indicators for human rights monitoring and indicators to be used in monitoring outcomes in the context of global development goals. In recent years there has been a greater effort to explore the use of indicators as human rights monitoring tools. Human rights monitoring indicators are designed to closely relate to specific legal norms. As such, they must reflect and effectively measure all elements of a right, including integration of cross-cutting human rights norms such as participation and accountability. Such indicators should be flexible enough to be contextually relevant. On the other hand, the call to integrate human rights elements into the post-2015 framework seeks to make monitoring these development goals rights-sensitive rather than transforming them into human rights monitoring tools.

C. Water, sanitation and hygiene in the global development framework

24. Under the current structure, the target for water and sanitation comes under the broader environmental goal, which also includes protection of natural resources, reduction of biodiversity loss and improvement of the lives of slum dwellers. The post-2015 development agenda should dedicate a stand-alone goal to water, sanitation and hygiene, considering that access to these services plays a central role in social and economic development.

25. The lack of access to water, sanitation and hygiene has not only an environmental impact but also social and individual dimensions. From a human rights perspective, water and sanitation, just like food, are parts of the same fundamental right to an adequate standard of living. Their similarities with other sectors such as education and health warrant attention alongside goals in these areas to ensure visibility and prioritization. Member States should take a consistent approach to their commitment in the Rio+20 outcome document, in which water and sanitation were set as one of the priority areas for sustainable development (see General Assembly resolution 66/288, annex, para. 119).

26. The normative content of the right to water and sanitation defined in terms of availability, quality, acceptability, accessibility and affordability points to essential features to be considered in the definition of indicators and targets. The misalignment of the current framework, such as for instance, the omission of whether water sources counting towards the achievement of the target are of good quality, has shown that the Millennium Development Goals can greatly benefit from better and more sustainable impacts if human rights are mainstreamed.

27. Access to water and sanitation is not only a human rights entitlement but it also has an enormous impact on human health: it is central to the reduction of child mortality, malnutrition, neglected tropical diseases, opportunistic diseases for people living with HIV/AIDS, and a number of other health conditions. It contributes to

ensuring gender equality, inter alia, by reducing the time spent by girls and women in collecting and managing household water. As such, access to water and sanitation also impacts on education, both through freeing children's time to attend school and through improving health. Moreover, improving access to water and sanitation reduces the burden of inadequate menstrual hygiene management.

28. In purely economic terms, it makes sense to stress the importance of access to water, and particularly to sanitation. According to a recent report, there is a global economic return of $5.50 for every dollar spent on sanitation, and $2 for every dollar spent on water, with total economic benefits of $60 billion annually for meeting the relevant target of the Millennium Development Goals. The corresponding economic loss owing to the inadequate delivery of water and sanitation amounted to 1.5 per cent of gross domestic product of the countries included in the study.[10]

III. Integrating equality and non-discrimination in the post-2015 framework

29. Non-discrimination, equality and equity must be understood before discussing their integration into goals, targets and indicators:

- **Non-discrimination.** Non-discrimination is one of the pillars of international human rights law and a central feature of all treaties. Discrimination is defined as any distinction, exclusion or restriction which has the purpose or the effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.[11] In terms of monitoring, this principle requires States to look beyond average attainments and to disaggregate datasets in order to allow for identification of disparate impacts or less favourable treatment over time.

- **Equality.** Equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights, and to their enjoyment. It requires a focus on all groups experiencing direct or indirect discrimination. Substantive equality requires the adoption of affirmative action or temporary special measures where barriers exist and persist, and which lead to denial of rights to individuals and groups. However, it must be emphasized that equal does not mean the same. Equality does not imply treating what is unequal equally; under human rights law, there is a necessary distinction, as equality does not indicate identical treatment in all cases. While universality is about ensuring access for all — even the hardest to reach — equality is about "levelling up" or progressively working to improve the quality and levels of service for groups that lag behind. In relation to water, sanitation and hygiene, equality presumes, for example, gradual improvements to close gaps in unequal

[10] WHO, "Global costs and benefits of drinking-water supply and sanitation interventions to reach the Millennium Development Goal target and universal coverage" (Geneva, 2012), pp. 4-5.

[11] See, for example, International Convention on the Elimination of All Forms of Racial Discrimination, art. 1.1; the Convention on the Elimination of All Forms of Discrimination against Women, art. 1; the Convention on the Rights of Persons with Disabilities, art. 2.

coverage rates. Human rights law requires equal access to basic services, but this does not mean that everyone benefits from the same technical solutions or the same type of service, such as flush toilets.

- **Equity.** Equity is the moral imperative to dismantle unjust differences based on principles of fairness and justice. In the water, sanitation and hygiene context, equity, like equality, requires a focus on the most disadvantaged and the poorest. Many organizations in the sector, including the Water Supply and Sanitation Collaborative Council, WaterAid, WHO and UNICEF, have made equity a central part of their agenda. However, from a human rights perspective, relying on equity carries certain risks because its definition is a malleable concept that is not legally binding. While equity may denote justice, it may dilute rights claims if considered separately from equality and non-discrimination.

30. Embracing the human rights principles of non-discrimination and equality as well as the equity approach must be central to any post-2015 framework, as it provides the necessary political foothold to prioritize a State's legal obligation to combat discrimination while also underscoring areas where human rights law has been traditionally less robust, particularly in relation to income disparities. Sustainable development for all is unattainable without political commitment to advancing these human rights principles.

A. Remedying inequality as the most significant blind spot in the Millennium Development Goals

31. Foremost in the post-2015 framework debate is the fact that the Millennium Development Goals are silent on discrimination, inequalities and unjustifiable disparities. At least in theory, many of the targets can be achieved without benefiting a single person with a disability, a single person belonging to an ethnic minority, or a single person living in poverty because their focus on average attainments creates a blind spot in the achievement of equality. In practice, the Special Rapporteur has consistently witnessed this reality and she is not alone in her observations. UNICEF has taken a lead role by placing equity at the centre of its development agenda, recognizing that reaching the poorest and most marginalized communities within countries is pivotal to the realization of the Goals.[12] Likewise, UN-Women has also cautioned that, with the target date of 2015 in sight, it is increasingly clear that progress towards meeting many of the Goals is off track. Inequality, including gender inequality, is holding back progress.[13]

32. In her country missions, the Special Rapporteur has noted that specific groups are excluded from access to water and sanitation, often reflecting patterns of discrimination, marginalization and limited political will to ensure substantive equality. These groups can be identified along ethnicity and socioeconomic divides.[14] In some countries, indigenous peoples living on reserves do not have

[12] UNICEF, *Progress for Children: Achieving the MDGs with Equity* (United Nations publication, Sales No. E.10.XX.5).

[13] UN-Women, *Progress of the World's Women 2011-2012: in Pursuit of Justice*, available from http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf.

[14] See, for example, mission to the United States of America (A/HRC/18/33/Add.4), para. 79.

access to water or sanitation services.[15] Dalits often suffer discrimination in accessing water and sanitation,[16] while Roma are most disadvantaged in many European countries.[17] Moreover, the Special Rapporteur's attention has repeatedly been drawn to vast gender inequalities and multiple discrimination, or the compounded impact of various grounds of discrimination on the same individual or group. For instance, women and girls are overwhelmingly tasked with collecting water and are physically and sexually threatened when they fetch water.[18] Persons with disabilities are also disproportionately represented among those who lack access to safe drinking water and sanitation.[19]

33. The United Nations System Task Team on the Post-2015 Development Agenda has noted that, in developing countries, access to water and sanitation, among others, are much worse for low-income and rural families. Despite progress in poverty reduction in the overall picture, the report argues, major inequalities persist.[20]

34. It then put forward equality as one of the fundamental principles providing the foundation for the post-2015 agenda, alongside human rights and sustainability.[21] Unless action is taken to deliberately address the discrimination and inequalities that particular groups face, the post-2015 goals will likely fail to address the underlying truth behind the figures: Millennium Development Goal indicators are consistently worse for discriminated groups in every region.[22]

35. Often, inequalities intersect and their effects accumulate over time. Without an explicit focus on multiple discrimination, these effects can continue unabated and stifle progress. Social, cultural, economic and political inequalities all have reinforcing effects that perpetuate social exclusion. Hence, a focus on intersectional inequalities is indispensable.[23] In fact, the Committee on Economic Social and Cultural Rights speaks to this crucial point in paragraph 17 of its General comment No. 20, stating that "cumulative discrimination has a unique and specific impact on individuals and merits particular consideration and remedying".

36. Being disadvantaged relates to different factors such as ethnicity, language, religion, caste, gender, age, disability, nationality, and others. While the focus of the equity discourse is often on people living in poverty, it must not be forgotten that the world's poorest are not randomly distributed — they disproportionately share one or several of the factors that commonly lead to exclusion and discrimination.

37. In order to properly assess progress in reducing inequalities, monitoring must go beyond inequities in income because focusing on income disparities does not address the root causes of exclusion and lack of access to social development, including water and sanitation. Examining these other factors explains why people

[15] See, for example, mission to Costa Rica (A/HRC/12/24/Add.1), para. 48.

[16] See, for example, mission to Bangladesh (A/HRC/15/55), para. 25.

[17] See, for example, mission to Slovenia (A/HRC/18/33/Add.2), para. 33.

[18] See, for example, mission to Egypt (A/HRC/15/31/Add.3 and Add.1), para. 22.

[19] See, for example, mission to Bangladesh (A/HRC/15/55), para. 21.

[20] United Nations System Task Team on the Post-2015 Development Agenda, "Realizing the future we want for all: report to the Secretary-General" (New York, 2012), para. 32.

[21] Ibid., para. 53.

[22] Melamed, "Putting inequality", p. 4 (see footnote 2 above).

[23] Dolf te Lintelo, "Summary: inequality and social justice roundtable consultation", MDG Achievement Fund and Institute of Development Studies (2011), p. 3.

lack access and helps to design appropriate policy responses. A person with a disability and a person of an ethnic minority might be both poor and lacking access to water and/or sanitation — but the reasons for their lack of access differ, and the necessary policy response to guarantee them access are also distinct. Sometimes, the barrier preventing certain groups from having access is not a lack of financial resources, but rather the existence of laws, policies or cumbersome administrative procedures that lead to their exclusion. Moreover, without targeting the most marginalized, they will continue to be excluded even when efforts target the poorest of the poor.

38. Against this background, in the Special Rapporteur's view, there is a need to redefine progress within the context of development — it must not be called progress when significant parts of the population are left behind. The future development agenda must include measures to determine how progress is distributed and who is excluded, and to set incentives to reduce inequalities and focus on the most disadvantaged.

B. The way forward: integrating equality and non-discrimination into goals, targets and indicators

39. The Special Rapporteur is of the view that a forward-looking post-2015 development agenda must be ambitious. It must tackle disparities and emphasize non-discrimination and equality as core principles. This view is shared increasingly by States, United Nations entities, development actors and civil society organizations. This comes from practical evidence found on the ground. Appallingly, much of the progress made since 2000 has left the most marginalized in a similar situation. Indeed, many agree that the current set of Millennium Development Goals, which focus on average progress, has masked the inequalities that lie behind these averages, thus requiring a new method of measuring progress. According to the United Nations Development Group, inequalities have been identified as one of only nine major areas for consultation at the global level. This sentiment is widely shared by those working in the water and sanitation sectors, agreeing that "concerns of non-discrimination and equity related to fulfilling the right to access water and sanitation should be reflected in future indicators".[24]

40. Undeniably, one of the strengths of the Millennium Development Goals is their format, with concrete and easy-to-communicate goals, quantitative and time-bound targets and measurable indicators providing a clear framework for global scrutiny. Hence, many stakeholders are arguing to retain this format.[25] This should be combined with developing better tools and methodologies for measuring the underlying inequalities that are otherwise hidden by current methods.

41. Already in 2010, States committed to improved systems for monitoring progress towards the Millennium Development Goals so as to allow for the collection of disaggregated data to capture inequalities by recognizing: "all countries require adequate, timely, reliable and disaggregated data, including

[24] WHO/UNICEF Joint Monitoring Programme on Water Supply and Sanitation, Report of the first Consultation, p. 3 (see footnote 7 above).

[25] United Nations System Task Team on the Post-2015 Development Agenda (2012), "Realizing the future", para. 24 (see footnote 20 above).

demographic data, in order to design better programmes and policies for sustainable development" (see General Assembly resolution 65/1, para. 68).

42. The current development framework already calls for the disaggregation of data according to different stratifiers, such as sex, to the greatest extent possible.[26] Experience has shown, though, that such calls are not sufficient by themselves — they need to be linked to goals and targets that offer an incentive for progress in reducing inequalities. At the technical level, the challenge of capturing the distributional dimensions of inequality is exacerbated by data constraints that make it difficult to track them. However, with the necessary political commitment, these challenges can be overcome, as will be further outlined below in the examination of some proposals to address inequalities in access to water, sanitation and hygiene.

43. By itself, disaggregation does not automatically result in the reduction of inequalities. It provides a tool for the collection of more detailed and accurate data, but policymakers need to act on the information it reveals. As difficult as it may be to track inequality given certain data constraints, the real challenge lies at the political level, because the way in which development, poverty and their inherent inequalities are measured has tremendous influence on the direction of policies, the allocation of resources and ultimately, the effectiveness of responses. Therefore, the aim of reducing inequalities must not only be captured at the level of indicators and disaggregation of data, but must be reflected in specific goals and targets against which progress can be measured.

44. The post-2015 framework must be explicitly designed to reveal who remains invisible, where efforts have failed, and how development continues to exclude entire population groups. Based on these findings, goals, targets and indicators must be framed in a way to reduce inequalities and target the most disadvantaged. They must not continue to focus solely on aggregate outcomes. The inherent difficulty of this process should not detract from the fact that it is a legal and moral imperative. The inclusion of goals, targets and indicators that focus on the reduction of inequality within the post-2015 framework will help to draw attention to the groups and individuals most in need, trigger the creation of more precise data and adjust development aims to better respond to the reality on the ground.

45. In response to the concern about averages hiding inequalities, some have proposed that future targets be made universal, so that no group can be left behind.[27] Under this option, the goal could not be considered achieved unless everyone is reached. However, setting universal access as the goal — as laudable and necessary as it is — does not by itself guarantee equal access and is insufficient to ensure priority for the most disadvantaged. Universal access at a specified target date can continue to bring focus on aggregate outcomes without setting incentives to reduce uncovered inequalities through targeting or prioritizing the most disadvantaged. To the contrary, specifying that a goal be "universal" alone may result in incentives for States to continue to prioritize the relatively well-off and easy-to-reach in order to demonstrate rapid progress towards the goal of universal access. Under that scenario, the most disadvantaged would often be the last to be

[26] See the official list of Millennium Development Goals indicators, available from http://mdgs.un.org/unsd/mdg/Host.aspx?Content=indicators/officiallist.htm.

[27] See, for example, John McArthur, "Getting to zero: finishing the job the Millennium Development Goals started", Global Agenda Council on Benchmarking Progress (2012).

reached.[28] The future goals and targets should therefore explicitly embrace equality alongside universality. While universality is about ensuring access for all, equality is about "levelling up" or working towards improving the quality and levels of service of groups that lag behind.

46. Equality is relevant to all fields of development and must be applied to all future goals and targets, including those concerning water, sanitation and hygiene. Integrating non-discrimination and equality into all future goals and targets requires including incentives to reduce inequalities. However, to underscore the intrinsic value of equality as an overriding objective, it should also be a stand-alone goal.[29] Having a stand-alone goal on the reduction of inequality is essential to bring it to light and to give it a centre stage in the development agenda. While some argue that a separate equality goal will lead to an insular treatment of equality,[30] the Special Rapporteur is of the opposite view: including equality as an overarching, cross-cutting concern at the goal level will ensure that the reduction of inequalities will be addressed under all the substantive targets, while she acknowledges that this will depend on the way the goal is crafted.

47. Among the ideas for a dedicated goal on equality, one of the most cited proposals is to have a target for income inequality by using the Gini coefficient.[31] A target could either relate to a specific level of income equality or it could call for a reduction in the Gini coefficient until it fell below a certain value.[32]

48. The conventional discourse describes poverty as multidimensional, yet its quantification has remained largely one-dimensional, focused on income, making it incapable of reflecting reality. Future targets should reflect the reality that poverty is often the result of multiple, intersecting forms of discrimination. Income inequality is not always the best proxy for measuring overall inequality. Other metrics of inequality may capture existing processes of discrimination and resulting inequalities better and more in line with human rights considerations.

49. In fact, the current Millennium Development Goal on gender equality represents already an attempt at formulating a stand-alone goal on one particular area of equality that is of paramount importance across the world. The accompanying target has been heavily criticized for limiting gender equality to education, which is again somewhat broadened by the indicators that also measure the share of women in wage employment and the proportion of seats in national parliaments.[33] Still, the gaps between the goal and its accompanying targets and indicators related to the overall measure of gender equality highlight the difficulty of reducing a goal on equality to a limited number of quantifiers that can capture the

[28] United Nations System Task Team, "Addressing inequalities", p. 12 (see footnote 3 above).

[29] *The United Nations Development Strategy Beyond 2015* (United Nations publication, Sales No. E.12.II.A.3), p. 18.

[30] Jan Vandemoortele, background paper prepared for the Experts Group Meeting to support the advancement of the Post-2015 United Nations Development Agenda, New York, 27-29 February 2012, sect. 7.8.

[31] A country's Gini coefficient is between 0 and 100, with 0 indicating perfect income equality and 100 indicating absolute income inequality, meaning that a single person would have all the income.

[32] Melamed, "Putting inequality", p. 4 (see footnote 2 above).

[33] *Claiming the Millennium Development Goals: a Human Rights Approach* (United Nations publication, Sales No. E.08.XIV.6), p. 26.

different forms and manifestations of inequalities in any meaningful and comprehensive way.

50. The challenge is to set such an overall goal on equality that does justice to its cross-cutting nature, relevance to all fields of development and different grounds and manifestations of inequalities. To address these challenges, the future development agenda could include an overall goal on achieving equality accompanied by targets for different sectors for reducing inequalities. Since it might not be necessary, feasible or advisable to relate all targets to all different grounds of discrimination, the pertaining indicators could focus on the dominant inequalities as relevant for different sectors relating to sex, disability, age, income/wealth, ethnicity, and geographic location, among other stratifiers.[34] The overall framework would have to ensure that all different types of inequalities are captured. Optionally, if indicators with ordinal values were selected, the different sectoral indicators could be combined for a composite score that would yield an overall measure of equality.

IV. Goals, targets and indicators for water, sanitation and hygiene

51. One of the challenges for the post-2015 development agenda will be to improve the analysis of the different forms of discrimination in access to water and sanitation and to design an appropriate methodology to monitor them. In this context, the Special Rapporteur highlights some manifestations of discrimination to assist in the assessment of goals, targets and indicators to successfully monitor non-discrimination. Appreciating that there will be difficult decisions ahead as goals, targets and indicators are narrowed and culled, she suggests some key issues for a future development agenda. These cover a range of different considerations derived from international human rights law as well as general considerations of equity. These issues could also, mutatis mutandis, be applied outside the water, sanitation and hygiene sector — so as to ensure that equity and non-discrimination are also captured in other areas of development.

52. Based on these considerations, this section also puts forward some ideas on how to integrate these in the future development goals, targets and indicators framework. It describes proposals on the methodology needed to gather and analyse the data necessary to support monitoring progress towards these targets. The monitoring system currently used by the Joint Monitoring Programme relies chiefly on household surveys. This data set includes a wide variety of equity and equality-related variables, which are amenable to much more equality analysis than has been performed to date. Other data could be generated relatively easily with slight adaptations of the current data sources and the addition of other sources to complement household surveys. The Special Rapporteur encourages the Joint Monitoring Programme and other monitoring bodies to explore ways to supplement household survey data with additional sources. Some potential additional sources include data from water and sanitation providers (such as data about location of users, fees paid, areas where access is non-existent or minimal), administrative data (e.g., data about service levels, cut-offs and disconnections). Through her discussion with technical experts and data specialists, the Special Rapporteur has learned that these proposals are feasible and that better monitoring of the equality dimension of access to water and sanitation can be achieved with the required political will.

[34] Melamed, "Putting inequality", p. 5 (see footnote 2 above).

A. Focusing on progressive realization while reducing inequalities

53. The omission of progressive realization striving towards universal access in the current framework has allowed States to settle for less-than-universal coverage, to the point of remaining at low levels of service, or ignoring persisting gaps among different segments of society, even when their available resources would allow them to go beyond the Millennium Development Goal commitments. While not intended as end-of-the-road national targets, the Goals have often been interpreted as such, hence missing the opportunity to tailor targets to the national level, beyond the international limits.

54. Human rights law requires States to prioritize basic access for everyone. This must be reflected in future goals, targets and indicators. Progressive realization also means that expeditious and effective steps must be taken and that it is not acceptable for States to aim at universal access at the most basic level only. Instead, continual improvement towards an adequate standard of living must be the aim. However, prioritizing those lacking services and ensuring progressive realization does not by itself address non-discrimination.

55. Among those who are disadvantaged in their access to water and sanitation, there are many who are discriminated against — because they have a disability, because they are girls, or a combination of these and other factors. If this additional dimension is not captured, the ones who are discriminated against will continue to be discriminated against, even among the most disadvantaged in their access to water and sanitation.

56. The Special Rapporteur encourages investigating data analysis techniques that elucidate the impact of intersecting forms of discrimination, since a human rights-based approach requires attention to such intersectionality — the ways in which different forms of inequality overlap and interrelate. For instance, some Governments have made use of data analysis to target subsidies according to income or geographic location, to ensure that they reach the desired households and individuals.[35] Often, place of residences and socioeconomic situation, together with sex and age, can point to multiple discrimination.

B. Address geographical inequalities: rural/urban disparities and slums

57. One of the most pervasive inequities in water and sanitation exists between the urban and rural populations. Global monitoring shows that rural populations persistently have lower levels of access than urban populations, calling for special attention in targets and/or indicators. Geographically removed, remote and marginalized regions are often overlooked in planning. The Special Rapporteur therefore encourages policymakers to keep the disaggregation between rural and urban, as called for in the current monitoring framework, while improving the methodology to capture the special situations of people living in slums.

58. People living in urban slums or informal settlements frequently lack access to adequate water and sanitation. Worldwide, it is estimated that a billion people live in

[35] Catarina Albuquerque and Virginia Roaf, *On the Right Track: Good Practices in Realising the Rights to Water and Sanitation* (Lisbon, 2011), chap. II.

slums, which is about one third of the urban population.[36] There are many causes for their lack of access to services, including deliberate exclusion, in laws and policies, of informal settlements from formal water and sanitation services. This kind of exclusion can lead to increased inequity, as slum dwellers have little choice but to pay exceedingly high prices to informal providers for poor or irregular levels of service.

59. Identifying and defining slums can pose a challenge for monitoring, but significant advances have been made in recent years, including by groups working with slum dweller organizations and through spatial analysis. Assessing slums by their spatial dimension — their location — could both yield more accurate data and serve as an effective link to planning. Indicators should be designed specifically for capturing the difference between slum and non-slum households. In addition, the definition of slums needs improvement; the best approach may be to use country definitions themselves. Those responsible for implementing major household surveys are encouraged to undertake special slum surveys, commit to oversampling in slum areas, and explore the use of data gathered by slum dweller organizations.

60. Emerging data sources and methods that include attention to equity and equality information should be further utilized even though preliminary reviews suggest that these approaches are still at an embryonic stage. The use of new technologies linked to mobile telephones and crowd-sourcing, for example, in relation to slums, can assist to rapidly expand data-gathering and monitoring in a participatory and transparent manner. For example, WaterAid and partners carry out water point mapping with global positioning system techniques to assist local governments to address existing disparities in the allocation of resources for water points and wells in both rural and urban areas, and this has also helped to identify political partisanship.[37]

C. Focus on inequities, shedding light on the poorest of the poor

61. As the Joint Monitoring Programme has demonstrated in recent years, wealth inequality correlates in many countries to inequalities in access to adequate water and sanitation. The rate of progress is very uneven among wealth quintiles in many countries, with the poorest two quintiles frequently experiencing lack of improvement while other quintiles experience significant improvements. In other countries, progress has been impressive among the lower quintiles, and lessons could be drawn from these experiences. Some Governments are reacting to this analysis by reassessing their policies and programming to target resources on those living in poverty. One of the countries visited by the Special Rapporteur earmarked a percentage of the budget for sanitation in rural areas, since these are traditionally poorer than urban ones. In another country, the Government created a revolving fund for access to intradomiciliary water connections in smaller villages, where inhabitants were poor and could not afford to buy the hardware in one instalment.

62. In presenting this wealth-quintile analysis, the Joint Monitoring Programme went beyond the requirement to provide the basic data required to report on the

[36] See WHO and United Nations Human Settlements Programme, *Hidden Cities: Unmasking and Overcoming Health Inequities in Urban Settings* (Geneva, 2010).

[37] See http://www.wateraid.org/uk/what_we_do/how_we_work/wash_matters/10092.asp.

water and sanitation target and presented quantitative data that point to socioeconomic segments of the population experiencing obstacles in accessing water and sanitation. The Special Rapporteur welcomes this initiative and considers such analysis to be very powerful in highlighting the inequities in access to water and sanitation, but also in showing that States are in a position to improve this situation with the necessary political will. The new framework should reflect the need for this analysis at the level of targets. Hence targets should be crafted that specifically address improvements for the lowest quintile or call for reducing the inequalities between the best-off and the worst-off.

D. Address group-related inequalities that vary across countries

63. In many countries, groups experiencing discrimination often face difficulties in accessing water and sanitation services. The water, sanitation and hygiene-related impacts of discrimination are often closely related to income-related impacts, but they are not the same. In fact, the dynamics and systems involved in discrimination against minorities and the impacts of wealth inequities are different. Data can assist in elucidating these differences, helping to catalyse action in relation to the specific problems present in a given context. The data necessary for disaggregation according to different groups are already gathered through standard household surveys used by the Joint Monitoring Programme and could be used much more widely.

64. Pilot analysis carried in the framework of the Working Group on Equity and Non-Discrimination demonstrated that significant disparities exist in water and sanitation access among ethnic, religious, and language minorities in some countries, a finding that emphasizes the need for tailored monitoring of minorities and marginalized groups. For example, in one South Asian country, data show that while open defecation rates for the majority population was 37 per cent, the rate for the minority population was 70 per cent. In another country of that same region, data show that open defecation rates for the population speaking the majority language was 39 per cent, and the rates for minority-speaking populations were significantly higher: between 55 per cent, and 85 per cent among other language speakers. A rights-sensitive analysis uncovers such patterns so that factors leading to these differences can be explored and policy responses can be developed. If the progress of groups that suffer discrimination and marginalization is not specifically monitored, those groups will remain excluded — even among the poorest.

65. Targets and indicators should therefore specifically address the "most disadvantaged groups". As discrimination manifests itself differently across regions and in countries and discriminated against groups vary by country, the formulation "most disadvantaged groups" is recommended, allowing for national specificity while making global monitoring possible. States would be required to identify the specific groups that will be monitored at the global level through a participatory process.[38] Groups that might be chosen for monitoring include those defined by ethnicity, race, religion, language, or spatially defined groups such as slum dwellers, residents of specific geographic areas, or other nationally tailored groupings.

[38] UNICEF and WHO Joint Monitoring Programme, Report of the first Consultation, p. 3 (see footnote 7 above).

66. While the situation of groups that form a relatively large part of the population can be monitored through the standard survey data used by the Joint Monitoring Programme, this is not always possible for small population groups since oversampling, to the degree necessary to detect discrimination or inequality, is not feasible. For small groups, special studies are needed that should be guided by a standard procedure manual containing guidelines for conducting special studies of small marginalized groups.

E. Address individual-related inequalities relevant in every country

67. Evidence shows that women and girls, older people, people with chronic illnesses and persons with disabilities often face particular barriers in accessing water and sanitation, and that these barriers are experienced both within the household and when accessing community and public facilities. Global monitoring data have demonstrated that women and girls shoulder the burden of collecting household water, restricting their time for other activities, including education and work. Moreover, when households share sanitation facilities, women and girls may be required by social norms concerning privacy to avoid using the facilities except during hours of darkness, when their personal safety may be at increased risk. When sanitation and water facilities are not designed with them in mind, older persons and those with physical access constraints, including disabilities may face obstacles to accessing and using these facilities. Such discrimination based on sex/gender, age, disability, and health status occurs across the globe and in all strata of society.

68. Human rights law requires that effective measures be taken to end discriminatory impacts based on sex/gender, disability, age and health status in all fields. States are obliged to take measures to enhance equality in all places where its impacts are felt, both public and private spheres. While human rights law does not require governments to directly provide water or to build sanitation facilities wherever they are lacking, it does oblige governments to take steps to ensure that everyone can access these rights without discrimination. It also requires States to provide basic services where individuals cannot access what they need, such as in displacement camps. In government-run institutions, such as primary schools, hospitals or places of detention, the direct provision of services will usually be required.

69. Much has been learned through questions in household surveys about intrahousehold inequalities related to water collection. Much less is known about such inequalities concerning sanitation and hygiene, and about water, sanitation and hygiene-related household inequalities concerning age and disability. Given that not all households share resources and assets equally among their members and that some may be relatively more privileged than others, commanding more income and accessing greater consumption opportunities, it is imperative to accurately disaggregate intrahousehold data regarding household resources such as water and sanitation. There is evidence that intrahousehold inequality and poverty may disproportionately affect women, persons with disabilities, children and older persons. Targets and indicators should be phrased to require monitoring of intrahousehold inequalities. They should shine a powerful light on areas that need change and ensure that monitoring is in line with the human rights imperative to overcome inequalities wherever they occur.

70. Currently, household surveys do not collect information about intrahousehold differences in access such as by sex, age, or disability. However, they could be amended to capture this dimension by focusing on the actual use of water, sanitation and hygiene by all individuals within a household which would allow for such monitoring. The Special Rapporteur's experience notes that interviewing women, children or persons with disabilities often draws a different picture of actual use of existing facilities, as well as of the existing barriers that explain lack of use.

71. In addition, it would be extremely valuable to monitor how gender, age, and disability-related inequalities manifest themselves in relation to water, sanitation, and hygiene in public facilities such as schools and health facilities where other human rights are also compromised. Indeed, such inequalities may be even more acute in public spaces, making the collection of data about equity and equality variables especially important in these contexts.

72. While household surveys do not capture information on settings beyond the household, other data sources include this type of information. Information about water, sanitation and hygiene facilities in schools and health-care facilities appears to be the most widely available, and an emphasis on improving monitoring in such settings is closely tied to the human rights obligations that States have concerning education and health. Data concerning water, sanitation and hygiene access in workplaces should be sought and used whenever possible. Finally, water, sanitation and hygiene data should also be gathered from prisons and other detention centres, since detainees often suffer deprivations of water and sanitation, even resulting in inhuman or degrading treatment. Although such data are not reliably captured around the world, global monitoring bodies should actively seek this information, since State obligations to both provide and monitor such access are at their apex in contexts where they are depriving individuals of their liberty.

73. One particular area where individual inequalities and the lack of attention to the needs of women and girls is starkly apparent is menstrual hygiene management. Menstruation is a taboo topic. In this context, women and girls are forced into furtive practices and obliged to hide their hygiene practices and limit their movements during menstruation. Although there is a dearth of research in this area, several studies demonstrate that adolescent girls often face significant restrictions during and associated with their menses.[39] Girls may be taken out of school or workplaces or choose not to attend because there are no facilities for hygienically managing menstruation in sanitation facilities.[40]

74. Because menstrual hygiene management has such a strong impact on gender equality, it could be used as a proxy for information about discrimination against women and girls in sanitation and hygiene. Targets and indicators should be crafted to capture the ability of all women and adolescent girls to manage menstruation

[39] For further discussion, see Archana Patkar's contributions to the meeting report of the Joint Monitoring Programme Working Group on Equality and Non-Discrimination, available from http://www.wssinfo.org/fileadmin/user_upload/resources/Lisbon-Meeting-Report-FINAL.pdf.

[40] Ibid; see also Marni Sommer, "Utilizing participatory and quantitative methods for effective menstrual-hygiene management related policy and planning", paper prepared for the UNICEF-Graduate Program in International Affairs Conference on Adolescent Girls, New York, 24-26 April 2010, available from http://www.wsscc.org/sites/default/files/publications/marnisommer_participatoryquantativemethodsmhmpolicyplanning_2010.pdf.

hygienically and with dignity, supported by amending the relevant household surveys explicitly asking about adequate menstrual hygiene management.

V. Conclusions and recommendations

75. **The present report concludes that there is much to be gained by redefining progress for a post-2015 development framework, and explicitly including equality, non-discrimination and equity at its foundations. The human right to water and sanitation offers exemplary illustrations of the significance of these principles. The report underlines the need for enhanced data collection and monitoring to determine who is excluded, and calls for incentives to reduce inequalities and focus on the most disadvantaged. Current limitations in measurements or data collection should not deter the international community from committing to a robust set of goals, targets and indicators to reduce the gaps in access to water and sanitation for all. On the contrary, one of the Millennium Development Goals most significant blind spots has been precisely their indifference to inequalities.**

76. **Against this background, the Special Rapporteur recommends the following:**

(a) **General recommendations on equality, non-discrimination and equity:**

(i) **The human rights principles of equality and non-discrimination, paired with equity, must be central to the post-2015 global development agenda. This should be ensured through two mutually reinforcing approaches: by creating a stand-alone equality goal; and by ensuring that other goals, targets, and indicators are explicitly designed to reveal who is left behind and to provide incentives for progress towards ensuring access for the most disadvantaged;**

(ii) **The stand-alone goal on equality must reach beyond income inequalities to address the root causes of exclusion and deprivation and reflect the cross-cutting nature of equality. It should consist of an overall goal on achieving equality accompanied by targets for different sectors for reducing inequalities;**

(iii) **Goals, targets and indicators must be framed in a way to reduce inequalities and target the most disadvantaged. They must not focus solely on aggregate progress and outcomes;**

(iv) **The future framework should aim at reducing inequality gaps while focusing on the most economically and socially deprived members of society. The equity approach should not be used alone; rather it should be complemented with the principles of non-discrimination and equality. Embracing both approaches provides an important political foothold by emphasizing areas where human rights law has traditionally been less robust — especially in relation to wealth inequities and global disparities — while also underlining the legal obligation to eliminate discrimination;**

(b) Recommendations regarding goals, targets and indicators for water, sanitation and hygiene:

(i) The post-2015 development agenda should incorporate a stand-alone goal on water, sanitation and hygiene, to ensure that universal access to these services will be treated as a vital feature of social and economic development, on equal footing with health or education. Water, sanitation and hygiene should not be neglected in the global priority-setting for development goals;

(ii) A goal on universal access must be complemented with a call for the reduction of inequalities. One of the targets should consist in reducing the gap between the rate of coverage in terms of access to water, sanitation and hygiene in the best-off or dominant groups to that of the worst-off or minority groups;

(iii) Future goals, targets and indicators on water, sanitation and hygiene must:

a. Focus on progressive realization towards good quality, and sustainable water and sanitation for all, without discrimination;

b. Address geographic inequalities, such as those experienced by communities in remote rural areas and slums;

c. Tackle inequities and disparities, shedding light and providing guidance for policymaking to benefit the poorest of the poor;

d. Address group-related inequalities that vary across countries, such as those based on ethnicity, race, nationality, language and religion;

e. Address the impacts of individual-related inequalities, present in every country of the globe, such as those based on sex/gender, age, and disability — as they are experienced in the public and private spheres;

f. Address the need for adequate menstrual hygiene management for women and girls;

(c) Recommendations regarding data sources and methodology:

(i) The Special Rapporteur calls for pushing the boundaries of what is currently perceived as measurable in order to better identify and monitor inequalities;

(ii) Disaggregation of data is a powerful tool for the collection of detailed and accurate information, but it does not automatically result in the reduction of inequalities. Incentives to reduce inequalities and target the most disadvantaged must be incorporated in the definition of goals, targets and indicators;

(iii) Monitoring initiatives at the global or regional levels should use the equity and equality-related variables included in the current data sets more widely as well as explore ways to supplement household survey data with additional sources;

(iv) Disaggregation between rural and urban should be maintained, as called for in the current monitoring framework, while improving the methodology to capture the special situations of people living in slums;

(v) Monitoring bodies at the regional and global levels should engage in pilot testing of possible uses of emerging data sources based on the use of new technologies;

(vi) The monitoring of gender, age, and disability-related inequalities in public facilities such as schools and health facilities should be enhanced;

(vii) Targets and indicators should be crafted to ensure that women and adolescent girls can manage menstruation hygienically and with dignity, including by specific questions in relevant household surveys about adequate menstrual hygiene management.

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International Convention for the Protection of All Persons from Enforced Disappearance

Report of the Secretary-General

Summary

In resolution 66/160, the General Assembly requested the Secretary-General to submit to it, at its sixty-seventh session, a report on the status of the International Convention for the Protection of All Persons from Enforced Disappearance and the implementation of its resolution. The present report is submitted in accordance with that request.

In a note verbale dated 3 May 2012, the Secretary-General invited Governments to transmit information pertaining to the implementation of the resolution. Replies have been received from the Governments of Argentina, Austria, Belgium, Bosnia and Herzegovina, Burkina Faso, Colombia, Finland, France, Germany, Greece, Hungary, Kazakhstan, Madagascar, Morocco, Paraguay, Peru, Romania, Slovakia, Switzerland, Uruguay and Venezuela (Bolivarian Republic of). Their responses are summarized in the present report.

The present report also includes information on the activities carried out in relation to the implementation of the resolution by the Secretary-General, the United Nations High Commissioner for Human Rights and her Office, the Committee on Enforced Disappearances, the Working Group on Enforced or Involuntary Disappearances, United Nations agencies and organizations, and intergovernmental and non-governmental organizations.

* A/67/150.

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I. Introduction

1. In its resolution 66/160 on the International Convention for the Protection of All Persons from Enforced Disappearance, the General Assembly requested the Secretary-General to submit to it, at its sixty-seventh session, a report on the status of the Convention and the implementation of the resolution. The present report is submitted in accordance with that request.

2. On 3 May 2012, the Secretary-General invited Member States to transmit relevant information pertaining to the implementation of the resolution. As of 23 July 2012, replies were received from the Governments of Argentina, Austria, Belgium, Bosnia and Herzegovina, Burkina Faso, Colombia, Finland, France, Germany, Greece, Hungary, Kazakhstan, Madagascar, Morocco, Paraguay, Peru, Romania, Slovakia, Switzerland, Uruguay and Venezuela (Bolivarian Republic of). The Secretary-General also sent requests for information on the implementation of the resolution to United Nations specialized agencies, programmes and funds, as well as civil society organizations. The Secretary-General received information on the activities of the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Education, Science and Culture Organization (UNESCO), the Organization of American States and the African Commission on Human and Peoples' Rights, as well as submissions from the International Coalition against Enforced Disappearances, Amnesty International, the International Commission of Missing Persons, and TRIAL (Swiss Association against Impunity). Their responses are summarized in the present report. The full text of the submissions is available on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR).[1]

II. Status of ratifications of the International Convention for the Protection of All Persons from Enforced Disappearance

3. As of 23 July 2012, 91 States have signed and 34 have ratified or acceded to the Convention; 14 States have recognized the competence of the Committee on Enforced Disappearances (the Committee) to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by a State party of the provisions of the Convention (article 31); and 15 States have recognized the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under the Convention (article 32). Updated information on the status of ratification of the Convention is set out in annex I to the present report.

III. Replies received from States

4. The summaries of the replies by States relating to the implementation of resolution 66/160 are provided below.

[1] Available from http://www.ohchr.org/EN/HRBodies/CED/Pages/ReportoftheS-GtoGA.aspx.

Argentina

5. Argentina has undertaken an active campaign to promote universal ratification of the Convention, including acceptance of the full competence of the Committee under the Convention. To that end, Argentina has encouraged States to ratify the Convention through the formulation of recommendations in the context of the universal periodic review as well as through its bilateral discussions with various States.

Austria

6. Austria informed that it had ratified the Convention on 7 June 2012.

Belgium

7. Belgium informed that it had ratified the Convention on 2 June 2011 and that it recognized the competence of the Committee to receive individual and inter-State complaints, as provided by articles 31 and 32 of the Convention.

Bosnia and Herzegovina

8. Bosnia and Herzegovina ratified the Convention nationally on 24 October 2011 and internationally on 30 March 2012. Bosnia and Herzegovina indicated that it did not recognize the competence of the Committee under articles 31 and 32 at the time, although the Ministry of Foreign Affairs will shortly commence a process to that end.

Burkina Faso

9. Burkina Faso ratified the Convention on 3 December 2009 and recognized the competence of the Committee. A study on the conformity of the national legislation concluded that there was no specific law on incriminating enforced disappearance. The assistance of OHCHR in drafting a law on enforced disappearance would be welcomed.

Colombia

10. In August 2011, the Supreme Court of Colombia approved the text of the Convention as well as Approving Law 1418 of 2010, which paved the way for the Ministry of Foreign Affairs to hold inter-institutional consultations with a view to ratifying the Convention.

11. On 19 and 20 April 2012, Colombia organized a seminar in Cali on prevention of the crime of enforced disappearance and directive 007 of the National Police together with the Ministry of Defence, the national police, the Commission to Search for Missing Persons and the United Nations Development Programme (UNDP). In the light of the success of the seminar, Colombia intends to organize similar seminars in Medellín and Santa Marta.

12. Colombia ratified the Convention on 11 July 2012, after it had submitted its reply for the present report.

Finland

13. Finland informed that it was preparing for the ratification of the Convention. A bill on the acceptance of the Convention was planned for submission to the Parliament at the end of 2012 or the beginning of 2013. The options provided by articles 31 and 32 of the Convention were under consideration by the working party on the bill.

France

14. In its submission, the Government of France underlined the major role it had played in the fight against enforced disappearances over the past 30 years and its intention to continue its efforts towards universal ratification and implementation of the Convention.

15. France ratified the Convention on 23 September 2008 and recognized the competence of the Committee under article 31. Although national legislation is essentially in line with the Convention, the Council of Ministers proposed amendments to the criminal code on 11 January 2012 and submitted it to the Senate. The draft law envisages specification of the crime of enforced disappearance (new article 221-12 of the criminal code); prosecution for "tacit complicity" in respect of holding the superiors of an accused criminally responsible (new article 221-13); and setting 30 years as the maximum time limit for bringing proceedings against an accused in relation to crimes associated with war, terrorism and drug trafficking (new article 221-18). In addition, the draft law allows for the prosecution in France of an accused, if, inter alia, extradition is refused by France on the basis that the offence is punishable in the requesting State by a sentence or detention contrary to French public order, of if the accused would be judged in the requesting State by a court that does not provide the fundamental guarantees of procedure and protection of rights of defence (new article 113-8-1). Finally, the draft law envisages the extension of French jurisdiction foreseeing quasi-universal jurisdiction for crimes of enforced disappearance (new article 689-13 of the criminal procedure code).

16. On 15 May 2012 France organized, together with Argentina and the Research Centre on Human Rights and Humanitarian Law of the University of Paris II, an international conference on enforced disappearances. Participants included experts of the Committee and of the Working Group on Enforced and Involuntary Disappearances, States members of the Human Rights Council, representatives of the Council of Europe, the Inter-American Court of Human Rights, the African Court of Justice and Human Rights and representatives of the principal non-governmental organizations concerned with the fight against enforced disappearance. The conference permitted a better understanding of the Convention and its role in preventing enforced disappearance. It also underlined the importance of cooperation among the various international and regional mechanisms and organizations dealing with enforced disappearance and emphasized the need for continued support to civil society to promote ratification and implementation of the Convention.

Germany

17. Germany ratified the Convention on 24 September 2009 and recognized the Committee's competence to receive individual and inter-State complaints on 20 June 2012.

18. On 25 April 2012, the German Institute for Human Rights organized a seminar and panel discussion on the theme "The Convention for the Protection of All Persons from Enforced Disappearance: a relevant issue for Germany". The Chair of the Committee and the representative of the Government for human rights matters participated.

19. Germany informed that it was preparing its first report, which it intended to submit to the Committee by the deadline of 23 December 2012. The report was being prepared in cooperation with the federal State (Länder) authorities and relevant non-governmental organizations.

Greece

20. Greece informed that the Ministry of Justice, Transparency and Human Rights intended to set up a special committee in order to elaborate a draft law ratifying the Convention.

Hungary

21. Hungary accepted the universal periodic review recommendation in 2011 to accede to the Convention and initiated the necessary internal consultations among the relevant Government departments that had expressed positive opinions regarding future ratification. During the consultations no technical objections against the recognition of the competence of the Committee were raised. The Government informed that it intended to submit the draft legislation on the accession to the Parliament in the second half of 2012.

Kazakhstan

22. Kazakhstan acceded to the Convention on 27 February 2009. Kazakhstan noted that it had not sought assistance from the United Nations system, or intergovernmental or non-governmental organizations, in respect of the Convention.

Madagascar

23. Madagascar had not yet ratified the Convention. In its response, Madagascar referred to regulation 62-003 of 24 July 1962, by which the term "absence" was defined as a situation whereby a person is separated from his domicile and whose existence is uncertain due to lack of news. The regulation also sets out how to obtain a declaration that a person is absent, including in a state of national emergency.

Morocco

24. Morocco adopted a new Constitution on 1 July 2011 that affirms the supremacy of duly ratified international conventions in relation to national laws. Article 25 of the Constitution criminalizes enforced disappearance. The draft criminal code defines the crime of enforced disappearance in compliance with the Convention.

25. During the high-level segment of the nineteenth session of the Human Rights Council, the Minister of Justice reiterated Morocco's commitment to ratifying the Convention. In that regard, on 1 March 2012, the Council of Ministers approved the decision to ratify the Convention and on 19 June 2012, the Parliamentary Commission on Justice, Legislation and Human Rights unanimously adopted draft law 20.12 on the approval of the Convention for ratification.

Paraguay

26. Paraguay promulgated Law 3977 approving the Convention which, in article 6 (2) established that no order or instruction of public authority, whether civil or military or of other nature, might be invoked as a justification for enforced disappearance. Paraguay also referred to its Law 3458/2008, which promulgated the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

Peru

27. On 23 January 2012, the Government published resolution No. 017-2012-RE, whereby it submitted its opinion to Congress that the ratification of the Convention would be in line with Peru's interests. The document was registered with the Congress on 13 March 2012. Peru informed that in considering ratification of the Convention, the Congress would also examine the issue of the Committee's competence under article 31. Peru also noted that it is a party to the Inter-American Convention on Enforced Disappearance of Persons.

Romania

28. Romania informed that it had signed the Convention on 3 December 2008 and that the competent authorities would decide upon the ratification pending further analysis relating to legal and financial implications. Romania noted that no cases of enforced disappearance had been reported in the country.

Slovakia

29. Slovakia stated that the National Council had approved in 2011 the amendment of the Criminal Code in order to criminalize and enact sanctions for enforced disappearance, thus creating the legal conditions for ratification of the Convention. It reiterated its willingness to become a party to the Convention and to recognize the competence of the Committee under articles 31 and 32. Slovakia announced that the

decision on ratification of the Convention should be taken by the end of August 2012 and that the ratification itself should take place during the sixty-seventh session of the General Assembly in September 2012.

Switzerland

30. Switzerland signed the Convention on 19 January 2011 and informed that the process for its ratification was under way and that the concerned federal offices were examining the consequences that the Convention could have on federal and cantonal law. The opening of a consultation process among those concerned in view of the ratification of the Convention was one of the objectives of the Federal Council in 2012.

Uruguay

31. Uruguay ratified the Convention on 4 March 2009 and accepted the competence of the Committee under articles 31 and 32. Uruguay informed that it had been active in encouraging the ratification of the Convention by other Member States, including by participating in an informal network of countries which, through their respective embassies, provide information to States that were discussing the possibility of ratification. Uruguay further noted that, as part of its strong commitment to the Convention, it supported the nomination and election of Álvaro Garcé García y Santos to the Committee.

Venezuela (Bolivarian Republic of)

32. The Bolivarian Republic of Venezuela informed that it was evaluating the ratification of the Convention and that in that regard the Ministry of Foreign Affairs had consulted the Ombudsman, the Ministry of Interior and Justice and the General Prosecutor. Some amendments had also been introduced in the criminal legislation in order to implement the Convention. The Prosecutor General was evaluating articles 31 and 32 of the Convention in order to determine when to make a declaration to that effect.

IV. Activities of the Secretary-General and the United Nations High Commissioner for Human Rights

33. In paragraph 5 of resolution 66/160, the General Assembly requested that the Secretary-General and the United Nations High Commissioner for Human Rights continue their intensive efforts to assist States in becoming parties to the Convention, with a view to achieving universal adherence. To that end, OHCHR has undertaken a series of steps to promote the implementation of the resolution.

34. In that regard, OHCHR continued its efforts in the fight against enforced disappearance and in realizing universal ratification of the Convention under the thematic priorities of "violence and insecurity" and "support for human rights mechanisms", as set out in its management plan for 2012-2013. Much of the effort focused on supporting State efforts to ratify the Convention and included the

provision of training and capacity-building assistance to States and civil society, as well as awareness-raising about the Convention.

35. In relation to promoting ratification, the High Commissioner systematically encourages Member States to ratify human rights instruments generally and has supported ratification in several countries. The High Commissioner personally encouraged ratification of the Convention during her missions to Guatemala in March 2012 and Pakistan in May 2012. She also encouraged Colombia to ratify the Convention as soon as possible and accept the competence of the Committee under article 31.

36. The OHCHR country office in Mauritania and the Human Rights Adviser in Rwanda assisted those Governments in initiating consultations with a view to ratifying the Convention. The Council of Ministers of Mauritania approved the bill authorizing ratification on 22 March 2012.

37. The OHCHR country office in Guatemala continued its efforts to encourage the Government to ratify the Convention, and supported monthly meetings of civil society and victims' organizations to promote ratification as well as the creation of a national search plan for victims of enforced disappearance. OHCHR regional offices for South America are taking steps towards the ratification of the Convention by Peru and Venezuela (Bolivarian Republic of) by the end of 2013.

38. The OHCHR country office in Nepal provided analysis and assistance to legal professional groups, civil society organizations and victim's groups to help them advocate for the adoption of a draft penal code and a draft bill for the Commission of Inquiries on Disappearances, which includes a provision to criminalize enforced disappearance. The office also contributed to the capacity-building of the National Human Rights Commission through a joint project with UNDP which, among other activities, successfully coordinated the exhumation, by relevant State actors, of the remains of five people who had allegedly been the victims of disappearance during the conflict in the country. The first four victims were exhumed in 2010 and 2011.

39. The OHCHR country office in Colombia facilitated the creation of a participatory mechanism to support discussion in Congress on a law related to the victims of enforced disappearances, which includes provisions related to land restitution. The office also contributed an analysis on the benefits of and gaps in the law.

40. The OHCHR country office in Mexico released a publication reproducing the text of the Convention and the recommendations made by the Working Group on Enforced or Involuntary Disappearances after its mission to Mexico in March 2011.[2] The publication was launched at a public event in the presence of State authorities and a member of the Working Group in March 2012. Six other regional events were organized in various States in Mexico to present the report, attracting considerable press attention. The office also conducted training workshops on the international standards on enforced disappearance, including on the Convention for federal authorities and members of the military.

41. The Human Rights Adviser in Paraguay provided training, upon the request of the Public Prosecutors Office, to strengthen technical research capacity, procedures

[2] Available from www.hchr.org.mx/files/Desaparicion%20forzada%20WEB.pdf.

and knowledge about the applicable law relating to enforced disappearance, including the Convention.

42. The OHCHR Regional Office for the Middle East delivered human rights training, including on the Convention, at four universities and 30 schools, reaching out to a total of 2,500 students in a six-week period.

43. On the occasion of the first United Nations International Day for the Victims of Enforced Disappearance, on 30 August 2011, the main web page of OHCHR featured a story on the theme "New impetus to eradicate enforced disappearance", which contained quotations by the Deputy United Nations High Commissioner for Human Rights on the importance of the Convention, the Committee and the Working Group on Enforced and Involuntary Disappearances, as well as the complementarity between the latter two.

44. The United Nations Voluntary Fund for Victims of Torture awarded grants to a number of non-governmental entities providing assistance to the families of victims of enforced disappearances and/or documenting cases of enforced disappearances in line with the relevant provisions of the Convention. In particular, the Fund supported a number of projects in Latin America aimed at providing legal assistance to the families of victims of enforced disappearances, including for the identification of disappeared children, through DNA testing. Projects to assist victims in Asian countries also included the collection of documentation for use in possible future legal actions and for the purpose of searching for victims; and promoting empowerment, through healing, for selected family members, who in turn act as healers for the families of other victims.

V. Activities of the Committee on Enforced Disappearances

45. During the reporting period, the Committee held its first and second sessions at the United Nations Office at Geneva from 8 to 11 November 2011 and from 26 to 30 March 2012, respectively. In his opening statements, the Chair emphasized the need for universal ratification of the Convention and the importance of working with States parties, signatories and all Member States since they have the primary responsibility to implement and enforce the Convention.

46. The Committee met with Member States in public meetings on 11 November 2011 and 29 March 2012. The Committee invited the States parties to the Convention to submit their reports as early as possible. It also encouraged States which had not yet done so to ratify the Convention and/or accept the competence of the Committee to consider individual communications. Recalling that article 4 of the Convention requires States parties to criminalize enforced disappearance, the Committee encouraged States parties to amend their national laws accordingly. The Chair updated the States on the initial work of the Committee, including the revision and adoption of the rules of procedure, the adoption of State party reporting guidelines and the development of practical tools, such as the forms to be used under the urgent action procedure and the individual complaints mechanism provided for under articles 30 and 31, respectively.

47. On 29 March 2012, the Committee held a public meeting with representatives of United Nations agencies and other mechanisms, intergovernmental organizations and national human rights institutions, in which representatives of the Working

Group on Enforced or Involuntary Disappearances, the United Nations Children's Fund (UNICEF), the International Committee of the Red Cross and the International Coordinating Committee of National Human Rights Institutions participated. The participants stressed the importance of the Convention as a tool to prevent enforced disappearances and fight impunity.

48. The Committee also met with representatives of over 30 non-governmental organizations on 11 November 2011 and 29 March 2012. It welcomed their efforts in support of the Convention and underlined the importance of close cooperation in raising awareness about it. During the discussion, the representatives voiced their concern about the limited number of States parties that had accepted the Committee's competence under articles 31 and 32.

49. On 27 March 2012, Committee members participated in a discussion, hosted by the Geneva Academy of International Humanitarian Law and Human Rights, on the implementation of the Convention and the future challenges of the Committee.

50. During its second session on 28 and 29 March 2012, the Committee held thematic discussions on "non-State actors" and on "women, children and enforced disappearances". The thematic discussion on non-State actors sought to envisage ways to engage States parties on the specific issue of non-State actors and enforced disappearances, as well as to further define and clarify the obligations of States under article 3 of the Convention and determine how those obligations differed from the general obligation of States to investigate and prosecute crimes that fell within the boundaries of domestic criminal law. Representatives of the working group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination and of the Geneva Academy of International Humanitarian Law and Human Rights were invited by the Committee to participate in the meeting. Following the thematic discussion, the Committee decided that it would hold a day of general discussion on the responsibility of States and the role of non-State actors at its third session.

51. The purpose of the thematic discussion on women, children and enforced disappearance was to highlight the specificities of the Convention as they apply to women and children, in particular article 25. At the meeting, the Committee highlighted the gender dimension of enforced disappearance, in respect of women victims and relatives of disappeared persons, and discussed ways to engage States in implementing a gender focus in their reporting obligations. Representatives of UNICEF and of ICRC were invited to attend.

52. The Committee took several steps to promote the Convention. During its first session, the Committee issued a press statement and decided that information on its activities and mandate would be posted on the OHCHR website. In addition, the Committee and the Working Group on Enforced or Involuntary Disappearances issued a statement on their joint meeting held on 9 November 2011, noting the intention of the two bodies to convene joint meetings in the future.

53. On 25 January 2012, the Chair of the Committee addressed a letter to all States Members of the United Nations, encouraging them to ratify the Convention and accept the optional mechanisms for communications, provided for in articles 31 and 32. On 20 June 2012, the Chair addressed a letter to the States parties presenting the "Guidelines on the form and content of reports under article 29 to be submitted by States parties to the Convention" (CED/C/2) and inviting them to submit their

reports within two years of having ratified the Convention, as provided for in article 29.

54. During its second session, the Committee discussed a strategy to encourage States to ratify the Convention and accept the optional mechanisms under articles 31 and 32. The members of the Committee agreed to organize and participate in activities in their regions with a view to disseminating information about the Convention and promoting awareness about the Committee's protective functions.

55. On 17 and 19 April 2012, the Vice-Chair of the Committee, Suela Janina, participated in a conference on gender and enforced disappearance, organized by the Working Group on Enforced or Involuntary Disappearances and the United Nations Entity for Gender Equality and the Empowerment of Women, held in Addis Ababa, and highlighted the special significance of the crime of enforced disappearance for women and children in the light of article 25 of the Convention. On 25 April 2012, Emmanuel Decaux, Chair of the Committee, one of its members, Rainer Hühle, and its secretariat participated in the Conference on Enforced Disappearances organized by the German Institute for Human Rights, during which the specificities of the Convention, the competence of the Committee and its complementarity with the Working Group were discussed. On 15 May 2012, members of the Committee and its secretariat participated in a conference held in Paris on the theme "International Convention for the Protection of All Persons from Enforced Disappearance: the Issues of Universal and Effective Implementation", organized by the Research Centre on Human Rights and Humanitarian Law of the University Paris II and sponsored by the Governments of Argentina and France. The President of the Human Rights Council, experts from the Committee and representatives of member States and non-governmental organizations sought to raise awareness about the Convention, stressing its preventive character, which is reflected in its mechanisms for monitoring and early warning, as well as its role in consolidating the rule of law and fighting against impunity in post-crisis contexts.

VI. Activities of the Working Group on Enforced or Involuntary Disappearances

56. Since its inception, the Working Group has transmitted more than 53,778 individual cases to Governments in more than 90 States. The number of cases under active consideration that have not yet been clarified, closed or discontinued stands at 42,759 and concerns 82 States. The Working Group has been able to clarify 448 cases over the past five years.

57. On 30 August 2011, the Working Group issued a public statement on the occasion of the first United Nations International Day of the Disappeared, in which it stressed the willingness of a number of States to take on the commitment that "no one shall be subjected to enforced disappearance" through the adoption of the Convention. It also stressed that, as with many other thematic human rights issues such as torture, racial discrimination, discrimination against women, the rights of the child and a series of civil, cultural, economic, political and social rights, the Committee and the Working Group would coexist, cooperating side by side in the fight to prevent and eradicate enforced disappearances wherever they occur around the world.

58. In its 2011 annual report to the Human Rights Council (A/HRC/19/58/Rev.1, para. 41), the Working Group reiterated its call to States that had not yet signed and/or ratified the Convention to do so and to accept the competence of the Committee to receive and consider individual and inter-State communications (articles 31 and 32). That recommendation was reiterated in a statement by the Chair-Rapporteur of the Working Group upon presenting the report of the Working Group to the Council on 5 March 2012.

59. On 25 June 2010, upon the conclusion of its ninety-first session, the Working Group called on all States that had not yet ratified the Convention to do so and to accept the State and individual complaint procedures.

60. In the report of the Working Group on its visit to Mexico, which was conducted from 18 to 31 March 2011, the Working Group recommended that the Government should accept the competence of the Committee concerning complaints from individuals and States, in accordance with articles 31 and 32 of the Convention (A/HRC/19/58/Add.2, para. 82).

61. In the report on its mission to the Congo, which was conducted from 24 September to 3 October 2011, the Working Group recommended, inter alia, the ratification of the Convention (A/HRC/19/58/Add.3, para. 100 (b)).

62. In the report on its mission to Timor-Leste, the Working Group expressed that it looked forward to the ratification by Timor-Leste of the Convention and its acceptance of the competence of the Committee (A/HRC/19/58/Add.1, para. 74).

63. In the follow-up report on its visit to Nepal, the Working Group noted that the Government would not accept the recommendation of the universal periodic review to ratify the Convention (see A/HRC/17/5, para. 109.2) and expressed its hope that the decision would be reviewed by Nepal. It therefore called on the Government to ratify the Convention in the very near future and to accept the competence of the Committee under articles 31 and 32 (A/HRC/19/58/Add.4, para. 28).

64. In the follow-up report on its visit to Colombia, the Working Group welcomed the signature of the Convention and encouraged the Government to continue the process of ratification and to accept the competence of the Committee under articles 31 and 32 (A/HRC/19/58/Add.4, para. 12).

65. The Working Group used every opportunity to promote the ratification of the Convention, including during visits undertaken to different States and bilateral meetings held with its representatives.

VII. Activities of United Nations agencies and organizations, intergovernmental and non-governmental organizations

66. A number of United Nations agencies and organizations, and intergovernmental and non-governmental organizations have undertaken great efforts at the national, regional and universal levels to disseminate information on the Convention, promote understanding of it, prepare for its entry into force and assist States parties in implementing their obligations under the instrument.

67. UNHCR has referred to the Convention in a number of publications and reports, which are accessible on its online *Refworld* database.

68. The United Nations Educational, Scientific and Cultural Organization (UNESCO) regularly provides information through publications, included on its website, on the status of ratification of international human rights instruments, including the Convention.

69. During the reporting period, the General Assembly of the Organization of American States passed resolutions that include a call to Member States to sign and/or ratify the Convention and assist the families of the victims of enforced disappearance (for example, AG/RES.2651 (XL-O/11).

70. The African Commission on Human and Peoples Rights noted that it had not taken any specific measures to disseminate information about the Convention over the reporting period. However, the Commission, as well as certain of its thematic mandates, such as the Special Rapporteur on the situation of human rights defenders in Africa, covered the issue of enforced disappearances as articulated in the Convention. Moreover, the Commission noted that it drew inspiration from all international law on human and peoples' rights, including United Nations instruments, and sought to advance the principles articulated in such instruments within the context of its mandates.

71. Regarding civil society, Amnesty International published a checklist in November 2011 entitled "No impunity for enforced disappearances", which provides guidelines to States parties on how to implement in law and practice their obligations under the Convention. It was published in English and translated into Arabic, Bahasa (Indonesia), Chinese and Spanish. Amnesty International also continued its advocacy work, publishing various press materials, both thematic and country-related and raising awareness about the Convention. It also continued to urge the authorities of the States to ratify the Convention and recognize the competence of the Committee.

72. The International Commission on Missing Persons organized seminars, conferences and workshops to implement the provisions of the Convention in Iraq and issued a press release urging the Government of Libya to ratify the Convention. It also participated in several other activities intended to promote the Convention.

73. The International Coalition against Enforced Disappearances, which comprises 41 non-governmental organizations from Asia, Latin America, Africa, the Euro-Mediterranean region and the United States of America, has undertaken a number of activities to promote the Convention, including by sending letters to Governments; coordinating national campaigns; participating in conferences, dialogues and forums all over the world; publishing quarterly e-newsletters; commemorating the International Week of the Disappeared; and maintaining two websites. From 7 to 9 November 2011, the Coalition and 28 of its member organizations convened in Geneva to participate in the first session of the Committee and met with the Working Group on Enforced or Involuntary Disappearances. In addition, the individual member organizations of the Coalition undertook a series of activities to promote the Convention.

74. TRIAL (Swiss Association against Impunity), which is also a member of the Coalition, monitored the process of the ratification of the Convention and the acceptance of the competence of the Committee in several countries, in particular during the reporting period on Bosnia and Herzegovina, Nepal and Switzerland, as well as through participation in international conferences. TRIAL raised awareness

about the Convention and the obligations of relevant States in a number of alternative reports to the Committee against Torture, in respect of Mexico, and the Human Rights Committee and the Committee against Torture, in respect of Bosnia and Herzegovina.

Annex

States that have signed, acceded to or ratified the Convention for the Protection of All Persons from Enforced Disappearance, as at 23 July 2012

Participant	*Signature*	*Accession/ratification*
Albania[a]	6 February 2007	8 November 2007
Algeria	6 February 2007	
Argentina[a]	6 February 2007	14 December 2007
Armenia	10 April 2007	24 January 2011
Austria[a]	6 February 2007	7 June 2012
Azerbaijan	6 February 2007	
Belgium[a]	6 February 2007	2 June 2011
Benin	19 March 2010	
Bolivia (Plurinational State of)	6 February 2007	17 December 2008
Bosnia and Herzegovina	6 February 2007	30 March 2012
Brazil	6 February 2007	29 November 2010
Bulgaria	24 September 2008	
Burkina Faso	6 February 2007	3 December 2009
Burundi	6 February 2007	
Cameroon	6 February 2007	
Cape Verde	6 February 2007	
Chad	6 February 2007	
Chile[a]	6 February 2007	8 December 2009
Colombia	27 September 2007	11 July 2012
Comoros	6 February 2007	
Congo	6 February 2007	
Costa Rica	6 February 2007	16 February 2012
Croatia	6 February 2007	
Cuba[a]	6 February 2007	2 February 2009
Cyprus	6 February 2007	

Participant	*Signature*	*Accession/ratification*
Denmark	25 September 2007	
Ecuador[a]	24 May 2007	20 October 2009
Finland	6 February 2007	
France[a]	6 February 2007	23 September 2008
Gabon	25 September 2007	19 January 2011
Germany[a]	26 September 2007	24 September 2009
Ghana	6 February 2007	
Greece	1 October 2008	
Grenada	6 February 2007	
Guatemala	6 February 2007	
Haiti	6 February 2007	
Honduras	6 February 2007	1 April 2008
Iceland	1 October 2008	
India	6 February 2007	
Indonesia	27 September 2010	
Iraq		23 November 2010[b]
Ireland	29 March 2007	
Italy	3 July 2007	
Japan[a]	6 February 2007	23 July 2009
Kazakhstan		27 February 2009[b]
Kenya	6 February 2007	
Lao People's Democratic Republic	29 September 2008	
Lebanon	6 February 2007	
Lesotho	22 September 2010	
Liechtenstein	1 October 2007	
Lithuania	6 February 2007	
Luxembourg	6 February 2007	
Madagascar	6 February 2007	
Maldives	6 February 2007	

Participant	*Signature*	*Accession/ratification*
Mali[a]	6 February 2007	1 July 2009
Malta	6 February 2007	
Mauritania	27 September 2011	
Mexico	6 February 2007	18 March 2008
Monaco	6 February 2007	
Mongolia	6 February 2007	
Montenegro[a]	6 February 2007	20 September 2011
Morocco	6 February 2007	
Mozambique	24 December 2008	
Netherlands	29 April 2008	23 March 2011
Niger	6 February 2007	
Nigeria		27 July 2009[b]
Norway	21 December 2007	
Palau	20 September 2011	
Panama	25 September 2007	24 June 2011
Paraguay	6 February 2007	3 August 2010
Portugal	6 February 2007	
Republic of Moldova	6 February 2007	
Romania	3 December 2008	
Samoa	6 February 2007	
Senegal	6 February 2007	11 December 2008
Serbia[a]	6 February 2007	18 May 2011
Sierra Leone	6 February 2007	
Slovakia	26 September 2007	
Slovenia	26 September 2007	
Spain[a]	27 September 2007	24 September 2009
Saint Vincent and the Grenadines	29 March 2010	
Swaziland	25 September 2007	
Sweden	6 February 2007	

Participant	*Signature*	*Accession/ratification*
Switzerland	19 January 2011	
Thailand	9 January 2012	
The former Yugoslav Republic of Macedonia	6 February 2007	
Togo	27 October 2010	
Tunisia	6 February 2007	29 June 2011
Uganda	6 February 2007	
United Republic of Tanzania	29 September 2008	
Uruguay[a]	6 February 2007	4 March 2009
Vanuatu	6 February 2007	
Venezuela (Bolivarian Republic of)[a]	21 October 2008	
Zambia	27 September 2010	4 April 2011

[a] States that have made declarations recognizing the competence of the Committee under articles 31 and/or 32 of the Convention. The full texts of the declarations and reservations made by States parties are available from http://treaties.un.org.

[b] States that have acceded to the Convention.